2402.

SUPREME COURT OF THE UNITED STATES.

No. 209.

JOHN G. GOESELE ET AL., APPELLANTS,

vs.

JOSEPH M. BIMELER ET AL.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES, FOR THE DISTRICT OF OHIO.

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Pleas began and held at the court-house in the city of Columbus, on the third Tuesday in the month of April, that being the fifteenth day of that month, in the year of our Lord one thousand eight hundred and fifty-one, and of the independence of the United States of America the seventy-fifth, before the honorable John McLean and the honorable Humphrey H. Leavitt, judges of the circuit court of the United States, within and for the district of Ohio.

Among other proceedings had were the following, to wit:

JOHN GEORGE GOESELE et al., complainants,
vs.
JOSEPH M. BIMELER et al., respondents. } In chancery.

Be it remembered, that heretofore, to wit, on the twenty-third day of November, being at the November term of said court, in the year of our Lord one thousand eight hundred and forty-six, came the said complainants, by their solicitor, and filed in said court their certain bill in chancery against the said respondents; which said bill is in the words and figures following, to wit:

Bill.

To the honorable judge of the circuit court of the United States, for the district of Ohio.

John George Goesele, son of Johannes Goesele, deceased, Anna Maria Waldenmaier, daughter of the said Johannes Goesele, deceased, with Charles Waldenmaier, her husband; John Adam Mann, Anna Maria Mann, John Jacob Mann, and Maria Barbara Mann, minor children of Maria Barbara Mann, deceased, daughter of Johannes Goesele, deceased, by their guardian John George Rentler, all citizens of the kingdom of Wertemberg, in Germany, bring this their bill against Joseph M. Bimeler, Godfrey Lenz, John G. Gretzinger, Jacob Sillfang, David Sillfang, Godfrey Kappel, Barbara Werner, Catharine Werner, Magdalena Akerman, Johanna Mock, Elizabeth Martins, Marianna Wintergeret, Margaretha Maier, Anna Maria Link, Wilhelmina Huba, Agnes Boder, Margaretha Neroltand, Barbara Seudlinger, Barbara Reiff, Barbara Buhler, John George Jans, Ann Maria Heid, John George Schandy, and Christian Weishaar, citizens of the State of Ohio, who are here made defendants to this bill. And thereupon your petitioners complain and say, that Johannes Goesele, deceased, of whom your petitioners are the heirs-at-law, departed this life at Zoar, in the county of Tuscarawas, in the State of Ohio, about the year A. D. 1827; that the said Johannes Goesele, in his lifetime, associated himself with the aforesaid defendants into a society called Separatists; and in the year A. D. 1817 purchased of one Godfrey Haga, of Phil-

adelphia, a tract of land situate in Tuscarawas county, Ohio, containing about 5,500 acres. Afterwards, but at what time your petitioners are not informed, they made other purchases of about 4,500 acres, thus increasing their quantity of land to about 10,000 acres, together with a large number of town lots, and other property, which was purchased about the same time; but of the number of the said lots, and the amount of the property so purchased, your petitioners are not informed. The title deeds to all of the aforesaid property, and other papers relating thereto, are now, and ever have been, in the possession of the aforesaid Joseph M. Bimeler. And although the said purchases were made for and on behalf of the said Johannes Goesele, deceased, and his associates, and for their use, as your petitioners here show, and the purchase money paid with the products of their joint labor, and with money by them severally appropriated, yet the said Bimeler, while acting as their agent, by fraud and evil practice, took and received the legal title to all of the property in his own name, to hold to him and his heirs forever, and now holds the same, to the great injury of your petitioners. Your petitioners further show, that numerous other persons were associated with the said Johannes Goesele, deceased, and the defendants as aforesaid, most of whom separated from the said association, and sold their interests to the said Goesele and the said defendants, but all property and right so acquired were taken, and are now holden, in the name of the said Bimeler; other of the said members died while so associated, and their heirs, your petitioners are informed, claim some portion of the said estate; but what portion is so claimed, and who the said heirs are, your petitioners are not informed, but when ascertained, pray that they may be at liberty to make such heirs parties defendants to this bill.

Your petitioners further show, that they, as the heirs-at-law of the aforesaid Johannes Goesele, deceased, are entitled to a large portion of the estate so holden by the said Joseph M. Bimeler as aforesaid, to wit, to about the one hundredth part thereof; and your petitioners have accordingly applied to and requested the said defendants to make partition of the said estate with your petitioners, but which they have wholly neglected and refused to do. And the said Joseph M. Bimeler, although often requested, has wholly refused to convey to your petitioners the portion of said estate so due and belonging to them as aforesaid. But now, so it is, the said defendants, combining and confederating with divers other persons, to your petitioners unknown, (but whose names, when discovered, your petitioners pray they may be at liberty to insert in this their bill, with apt and proper words to charge them as parties defendant hereto,) and contriving how to injure and oppress your petitioners in the premises, absolutely refuses to comply with your petitioners' aforesaid reasonable request. But the said Joseph M. Bimeler, by fraud and evil practice, has acquired possession and control of the said property, and now endeavors to hold the same against the just rights of your petitioners. And to continue his unjust conduct, he sometimes pretends that the said Johannes Goesele parted with his right to

the said property, and by means of several articles of association conveyed his interest in the said estate to a society, &c. But your petitioners show that no such conveyance, as valid in law, was made by the said Goesele; but that he died seized of the equitable title to an undivided portion of the said estate, as claimed by your petitioners as aforesaid; all of which actings and pretences of the [said] Joseph M. Bimeler, and his confederates, are contrary to equity and good conscience, and tend to the manifest wrong nad injury of your petitioners in the premises; to the end, therefore, that the said defendants may, if they can, show why your petitioners should not have the relief hereby prayed for, and may, upon their several and respective corporal oaths, and according to the best and utmost of their several and respective knowledge, remembrance, and belief, full, true, and direct, and perfect answers make to such of the several interrogatories hereafter numbered and set forth, as by the note hereafter written, they are respectively required to answer; that is to say—

First. Whether the said property was not purchased by and for the use of the said Johannes Goesele, and his associates, as aforesaid, and paid for with the products of their joint labor and means?

Second. Whether the said Johannes Goesele did not die while a member of said society, as charged in this bill?

Third. Whether the legal title to the aforesaid property was not taken, and is now holden, in the name of the said Bimeler?

Fourth. Whether the title papers to the said property is not now in the possession of the said Bimeler?

Fifth. Whether the said Bimeler did not receive the said titles in his own name while acting as the agent of the said association of persons?

Sixth. Whether he, the said Bimeler, has not, at all times, since the emigration of the aforesaid persons to America, acted as their general agent?

Seventh. Whether many of the persons, so associated as aforesaid, did not sell their interests in the said property to the said Goesele and his associates; or whether many did not withdraw from the said society, and receive a part of the goods or money belonging to the society in full satisfaction of their claims to the said property?

Eighth. Whether many of the persons so associated have not died since their association; who they were, and what were their interests in the said property?

Your petitioners therefore pray that the writ of subpœna may issue against the said defendants; and that the said Joseph M. Bimeler may be compelled to give a full and true description of the property, lands, and town lots so held by him as aforesaid; and that on the final hearing of this cause the said defendants may be compelled to make partition of the said property with your petitioners; and that the said Joseph M. Bimeler may be compelled to make a good deed in fee simple to your petitioners for so much of the said property as, by the decree of this court, may be found to belong to them. And that your

petitioners may have such other and further relief in the premises as equity and good conscience may require.

DAVID QUINN,
Solicitor for complainants.

NOTE.—The defendants, Joseph M. Bimeler, John George Jones, John George Schandy, and Christian Weishaar, are required to answer the above interrogatories.

On which said bill is the following endorsement of security for costs, to wit:

"I am security for such costs as the plaintiff may be liable for in this suit.

"DAVID QUINN."

And afterwards, to wit, on the fifth day of December, in the year of our Lord one thousand eight hundred and forty-six, the following writ of subpœna was issued out of the clerk's office of said court, to wit:

Subpœna.

UNITED STATES OF AMERICA,
District of Ohio, ss.

To the marshal of said district, greeting:

We command you to summon Joseph M. Bimeler, citizen of and resident of the State of Ohio, if he be found in your bailiwick, to be and appear before the judges of the circuit court of the United States, for the district of Ohio aforesaid, at Columbus, on the third Monday in the month of July next, to answer a bill in chancery exhibited against him and others by John George Goesele, Anna Maria Waldenmaier, and Charles Waldenmaier her husband, John Adam Mann, Anna Maria Mann, John Jacob Mann, and Maria Barbara Mann, by John George Rentler, their guardian, all citizens of the kingdom of Wertemberg, in Germany; and of this writ make legal service and due return on the first Monday of February next, and have then and there this writ.

Witness the honorable Roger B. Taney, chief justice of the United States, this 5th day of December, 1846, and in the 71st year of the independence of the United States of America.
[SEAL.]

Attest: WM. MINER, *Clerk.*

The defendant is to enter his appearance in this suit, on or before the day at which the writ is returnable, in the clerk's office, otherwise the bill may be taken pro confesso.

Attest: WM. MINER, *Clerk.*

And afterwards, to wit, at rules of said court, held in the clerk's office thereof for the month of February, in the year of our Lord one thousand eight hundred and forty-seven, that being the time to which

said writ was made returnable, came the marshal, to whom the same was in form aforesaid directed, and returned the same into the clerk's office aforesaid, with his proceedings thereon endorsed, in the words and figures following, to wit:

Not served by reason of the absence of my deputy at New Philadelphia, to whom it was sent. February 1, 1847.

D. A. ROBERTSON, *Marshal O. D.*

And afterwards, to wit, on the twenty-ninth day of March, in the year last aforesaid, came the said complainants, by their solicitor, and sued out of said clerk's office a certain alias writ of subpœna against the said respondent in the words and figures following, to wit:

Alias subpœna.

UNITED STATES OF AMERICA,
District of Ohio, ss.

To the marshal of said district, greeting:

We again command you to summon Joseph M. Bimeler, a citizen of and resident in the State of Ohio, if he be found in your bailiwick, to be and appear before the judges of the circuit court of the United States, for the district of Ohio aforesaid, at Columbus, on the third Monday in the month of July next, to answer a bill in chancery exhibited against him and others by John George Goesele, Anna Maria Waldenmaier and Charles Waldenmaier, her husband, John Adam Mann, Anna Maria Mann, John Jacob Mann, and Maria Barbara Mann, by John George Rentler, their guardian, all citizens of the kingdom of Wertemberg, in Germany; and of this writ make legal service and due return on the first Monday of May next, and have then and there this writ.

Witness the honorable Roger B. Taney, chief justice of the United States, this 29th day of March, 1847, and in the 71st year of the independence of the United States of America.

[SEAL.]

Attest: WM. MINER, *Clerk.*

The defendant is to enter his appearance in this suit in the clerk's office on or before the day at which the writ is returnable; otherwise the bill may be taken pro confesso.

Attest: WM. MINER, *Clerk.*

And afterwards, to wit, at rules of said court, held in the clerk's office thereof, for the month of May, in the year last aforesaid, that being the time to which said writ was made returnable, came the marshal, to whom the same was in form aforesaid directed, and made return thereof into said clerk's office, with his proceedings endorsed thereon, in the words and figures following, to wit:

Served the within writ by leaving an attested *coppy* with the defendant, J. M. Bimeler, April 24th, 1847.

SAMUEL BAUGHMAN,
Deputy U. S. Marshal, O. D.

Order.

And afterwards, to wit, on the twenty-first day of July, being at the July term of said court, in the year of our Lord one thousand eight hundred and forty-seven, on motion of the defendants, by their solicitor, leave is given them to answer; and this cause is continued.

And afterwards, to wit, at the November term of said court, in the year last aforesaid, this cause was continued.

And afterwards to wit, on the twelfth day of January, A. D. 1848, came the said Joseph M. Bimeler, by his solicitors, and filed in the clerk's office aforesaid his separate answer to the bill of complaint herein; which said answer is in the words and figures following, to wit:

Answer of J. M. Bimeler.

The separate answer of Joseph M. Bimeler, one of the defendants to the bill of complaint exhibited against him and others in the circuit court of the United States, for the seventh circuit and district of Ohio, by John George Goesele and others.

This defendant, now and at all times hereafter, saving to himself full benefit and advantage of exception to the many errors and insufficiencies in said bill manifest, for answer thereto, or to so much thereof as he is advised it is necessary or material for him to make answer unto, he answers and says: That he admits that one Johannes Goesele died at Zoar, in the county of Tuscarawas, Ohio, on or about the twenty-sixth day of July, A. D. eighteen hundred and twenty-seven; but whether the said complainants are the heirs-at-law of the said Johannes, this defendant has no knowledge, information, or belief, and therefore requires strict proof thereof; nor is this defendant acquainted with the respective places of residence or citizenship of said complainants, but requires proof as to that also. Further answering, defendant admits that, at the time of his death, the said Johannes was a member of the said association, called Separatists, the origin and history of which defendant will now proceed to give: That, prior to the year 1817, a religious society of Christians, called Separatists, emigrated from Germany to the United States of America. On their arrival at Philadelphia, pecuniary aid was furnished to them by the Society of Friends, called Quakers, of London and Philadelphia, which enabled them to subsist whilst in Philadelphia, and to remove to the State of Ohio, and settle upon a tract of 5,500 acres of land, called Zoar, in the said county of Tuscarawas. This land was purchased for them, whilst they were in Philadelphia, of one Godfroy Haga. The society being then without organization, and there being no funds to make payment for the land, this defendant entered into the contract of purchase, in his own name, at the price of $15,000 00, for which defendant gave to Haga his individual bonds, upon the payment of which Haga covenanted to convey to this defendant the said land. After the arrival of the society at the tract of land so purchased, the members immediately settled upon it, and commenced making improvements. At the time of this first

settlement, a community of property was not contemplated by the society. After much deliberation, this feature of the association was first agreed upon, and ratified on the 15th April, A. D. 1819; at which time a constitution or article of association was drawn up and executed by the members of the society, consisting of 53 males and 104 females; and on the same day it was resolved that the funds, which remained of the aforesaid donation from the Society of Friends, should be transferred to the association, which was accordingly done. The articles of association, so signed and adopted, consist of a preamble and seven articles. The preamble recites that the members of the society have, in a spirit of Christian love, agreed to unite in a communion of property according to the rules specified.

These rules declare that the members respectively renounce all individual ownership of property, present or future, real or personal, and transfer the same to three directors elected by themselves; that the directors shall be elected annually by the members, conduct all the business of the society, take possession of all its property, and account to the society for all its transactions. It further provides, that retiring or backsliding members shall demand no compensation for labor or property contributed, unless a majority of the society see proper to make an allowance, and that the society may increase or reduce the number of its members with a view to union and the preservation of the association. Defendant exhibits herewith a copy of these articles of association, marked exhibit A, and prays that the same may be taken as a part of this answer.

The society continued under this constitution for more than five years, and until the 18th March, 1824, when amendatory articles were agreed upon and signed by the members, consisting of 60 males and 100 females. These amendatory articles consist of a preamble and twelve sections, purporting to be founded on the basis of the original agreement, and to carry out more fully the spirit of union and Christian love.

Sec. 1. Provides for an entire union of property and renunciation of all individual ownership.

Sec. 2. Males of the age of 21, and females of the age of 18, by signing the articles become members, and all new members are to come in on the same terms as to communion of property, and to surrender all their individual property; but the society shall not be liable for the concealed debts of such new members.

Sec. 3. Prescribes the powers and duties of the directors, who are to be elected by the society to take charge of all the property, to conduct the entire economy of the association, and to provide for the boarding, clothing, and lodging of the members.

Sec. 4. The members bind themselves to observe the orders and regulations of the directors, and to apply themselves during life diligently to the common benefit of the society, and that their children, during their minority, shall conform to the regulations of the directors, and may be bound by them to labor, either within or without the so-

ciety; provided that no child shall be bound to labor out of the society except by the consent of a majority of the members.

Sec. 5. Empowers the directors to demand and receive legacies or other inheritances of deceased members, and all moneys or property belonging to or due to deceased members.

Sec. 6. Empowers the directors to hear and determine casual disputes among the members, with right of appeal to the board of arbitration.

Sec. 7. Establishes a board of arbitration, to consist of from one to three members, to be elected by a majority of the members; which board is invested with the highest concentrated power of the society. This board shall have supervision over all the affairs of the society, its directors, or agents, and all transactions of more than $50 in amount must first be submitted to its decision. Its orders shall be final in all cases, and a failure to comply with them, or a resort to law against them, forfeits the right of membership. It is invested with authority, in the name of the society, and upon sufficient cause shown through the directors, to excommunicate refractory members, to erase their names from the constitution, and to deprive them of all future enjoyment in the society. It may also determine the damages to be paid by excommunicated members, to be collected by the directors by due course of law. Its decisions are to be recorded, and to be taken as binding in all courts.

Sec. 8. New members may be admitted by a vote of two-thirds of the members, upon previous application to the directors, and notice to the board of arbitration, and upon admission shall sign these articles.

Sec. 9. Provides for the election of the directors and board of arbitration at such times and in such mode as the society may determine; the number of directors never to be less than three, and none to be eligible without a good moral character, and membership of at least five years standing; none to be eligible to the board of arbitration but those of unblemished character, and membership of at least ten years. All the members, male and female, have the right to vote at elections, unless unfit by reason of disorderly conduct, of which the directors or arbitrators shall determine. A majority of the votes shall be necessary to the election of any officer, and the right is reserved to the body of the society to remove at pleasure any officer, or to make any change.

Sec. 10. Provides for the election of a cashier by the members of the society; his duties shall consist in keeping the moneys of the society, its notes, bonds, &c. No money can be drawn or paid out except on his order, and he is to apply the money by order of the directors or arbitrators to the benefit of the socity, the payment of its debts, &c.

Sec. 11. No demand for compensation, or any share of the property, shall at any time be made by backsliding or expelled members.

Finally, it is declared that these amendatory articles shall not be construed as contradicting or abrogating the original articles, but only as a detailed explanation of them. Defendant herewith exhibits a copy of

said amendatory article, marked exhibit B, and prays that the same may be taken as part of the answer.

In the year 1832 an act of incorporation was obtained for the society, and on the 14th day of May following, at a meeting called in pursuance with the third section of the act, a constitution was framed and adopted. The act of incorporation is entitled "a bill to incorporate the society of Separatists of Zoar, Tuscarawas county."

Sec. 1. Creates Joseph M. Bimeler and 20 others named, and their associates, a body corporate, by the name of "the Society of Separatists of Zoar," with the usual incidents of a corporation, to have a common seal, sue and be sued, contract and be contracted with, with capacity to hold property, real, personal, and mixed, by purchase or otherwise, and to alien and dispose of the same, with power to form a constitution, adopt bye-laws, prescribe the number and power of its officers, to prescribe the manner in which members may be admitted or dismissed, &c.; provided such constitution and by-laws be consistent with the Constitution and laws of the United States and this State, and that the clear annual income of the society shall not exceed one thousand dollars.

Sec. 2. Authorizes any three of the persons named in the first section to call a meeting of the society, by a notice put up 10 days in the place of public worship in Zoar, for the purpose of forming a constitution and by-laws.

Sec. 3. That elections of officers shall be by the members of the society, on the second Tuesday of May, annually, at the place of holding public worship.

Sec. 4. Reserves the right of appeal to any future legislature, with the usual provision that the same shall not affect title conveyed under the act of incorporation, or divert the same to any other purpose than that originally intended. Defendant herewith exhibits a copy of said act of incorporation, marked exhibit C, and prays that the same may be taken as part of this answer.

The constitution purports to have been made at Zoar on the 14th May, 1833, in pursuance with the act of incorporation, and is signed by 51 males and by 103 females, total 154, and consists of a preamble and 12 articles. The preamble recites that the members of the society have found it expedient to renovate their existing constitution, and therefore, in the name of the Trinity, in order to secure their conscience in the faithful discharge of the duties which the Christian religion demands, and to establish the spirit of love as the bond of peace and unity for themselves and their posterity forever, as a permanent foundation of social order, they agree to unite their various individual interests into one common stock, conformable to the plan of the primitive Christians, and all inequalities and distinctions of rank and fortune are abolished, and they agree to live together as one family; pursuant to which the[y] bind themselves by this agreement, and unite under the title of "Society of Separatists of Zoar," and oblige themselves, each to the other, to observe and support the following articles:

Art. 1, as to elections. Provides that all elections of officers shall,

agreeable with the act of incorporation, be held on the second Tuesday of May, annually; the vote to be by ballot, and a majority necessary to a choice. At which election shall be annually elected (extraordinary circumstances excepted) one trustee and one member of the standing committee; quadrennially, one cashier; an agent general, during good behavior; twenty days' previous notice of election to be given. And at each election the society, or any ten members, shall appoint four persons to conduct the election in conformity with the laws of the country. The officers shall be chosen, among the members, with special reference to integrity and qualifications.

Art. 2, of the trustees. Provides for the election of three trustees or directors, at the first election, to continue in office, the oldest for three years, the next for two years, and the youngest for one year; and, after the first year, one to be elected annually for three years; reserving to the society the power of filling vacancies upon death, resignation, &c., and of a motion from office for misconduct. The trustees are empowered to take charge of all the property, real and personal, of the society, or which may in any way be due from new members, legacies, donations, &c., and shall appropriate the same to the best interests of the society; and they shall carefully furnish each member, without respect of persons, with board, clothing, and dwelling, and other necessaries, in sickness or health, as good as circumstances will allow. They shall conduct the economy of the society, regulate its business, assign to the several members their respective duties, and be under the supervision of the standing committee. All discord and contentions shall be settled by the trustees, with the right of appeal to the board of arbitration. They may propose to the standing committee and board of arbitration any new regulations not inconsistent with this constitution; and, if sanctioned by a majority of both bodies, they shall be adopted. All deeds, mortgages, and similar instruments, shall be executed in the name of the trustees, and deposited with the agent general. (See art. 3 for this latter clause.)

Art. 3, of the agent general. He is to act as auxiliary to the trustees; and to him are assigned various duties, chiefly connected with the traffic of the society, and its dealings with others, such as buying and selling, the correspondence, the giving and accepting orders, and the superintendence of the manufactures; he may appoint sub-agents even out of the society, with consent of the trustees; and in all matters of importance he shall act with the advice and concurrence of the trustees, and be in all things accountable to the standing committee. He is also made the depository of all deeds, mortgages, and similar instruments.

Art. 4, of the standing committee. This committee is to consist of five members, to be elected by the society for a term of 5 years; which term is so to be regulated (at the first election) that one is to [be] thereafter elected annually. No member of the board of trustees shall be elligible to this committee. In this body is deposited the concentrated power of the society. It is declared to be the final court of appeals for the decision of differences among the members.

2409.

Art. 5, of the cashier. His term of office is to be four years; he is to keep all the money of the society, and appropriate it, according to the instructions of the trustees, the agent general, and the standing committee, exclusively to the benefit of the society; he is to render an annual account to the trustees, and to keep a record of the election, and other important measures. All persons, trustees, agent general, standing committees, and members, are to pay all moneys, notes, &c., into the hands of the cashier.

Art. 6 is a formal surrender by each member of all property, present or future, moveable or immoveable, to the society, to remain the property of the society forever.

Art. 7, as to the admission of new members. No one to be admitted unless of full age—males 21, females 18—and unless he or she shall have resided, at least one year previous to the application, in the society as a member of the first class, and faithfully fulfilled the contract with the trustees, at their entrance into the first class. (The regular members constitute the second class.) The application being made on deliberate judgment, is to be communicated to one or more of the trustees, who make it known to the society, after full conversation with the applicant, at least 30 days before the time appointed for the decision of the application; and, if no objection is made by the society or any of its members, the applicant is then admitted o sign this constitution and become a full member; but, if such new member has kept secret any of his debts foreign to the society, such concealment shall work a forfeiture of his rights as a member.

Art. 8, the institute. Provides for an institute for the education of all the children of the community, with suitable overseers or principals, to be chosen by the standing committee. Parents are bound to place their children, after they are three years of age, in the care of these overseers, who are to exert their best abilities to give the children the best possible education, physical and moral, not only in the scientific branches of knowledge, but also in different branches of manual labor. The institute is put under the strict superintendence of the standing committee, who are authorized to place the children under the control of the trustees so soon as their ages, abilities, and bodily constitutions will permit; which trustees are to give such employment as is suitable for them.

Art. 9. This article authorizes the trustees to demand, receive, and hold, in the name of the society, all the remaining property of deceased members, wherever situate.

Art. 10 provides for the settlement of all disputes and controversies among members, first by application to the trustees, with right of appeal to the standing committee or board of appeal, the decision of which is to be final and binding; and any member disobeying such a decision, or not acquiescing in it, shall lose the right of membership.

Art. 11, as to seceding members. This section provides, that any member who may wish to withdraw from the society shall notify one or more of he trustees of such intention, who shall notify the society; that, if any complaints exist against such members, they may be heard

by the trustees; and if such member has, without the knowledge of the trustees, contracted any debt upon the community, he shall make restitution or indemnity; and, in case of refusal, the trustees shall sue for the same. The same indemnity shall be given by such members as may be expelled for acting contrary to good order, whose name the committee are authorized to erase, and to excommunicate them from all further enjoyment and rights of membership. Neither seceding nor expelled members shall, under any pretence, make any demand on the society, either for property brought in by them, or for labor or services performed. The standing committee are however authorized, in their discretion, upon the application of such members, to make or refuse them any allowance or indemnity, and their decision shall be final. All judgments of the committee in the premises shall be recorded. This constitution shall never in anywise be broken or annulled by any dissatisfied or seceding member.

Art. 12 provides that this constitution may be altered by the society, provided that such alteration or addition shall always be founded upon the principle of unity and the conservation of the society, and to be agreed to by at least two thirds of the members. It further declares, that it is not to be taken as annulling the original articles of April 15, 1819, or of the 15th of March, 1824, which are still to be regarded as the basis of the constitution. That all matters of doubt in the construction of the constitution are to be expounded favorably to the society and against individual members. Once each year the constitution is to be publicly read at the place of public meeting.

The defendant herewith exhibits a copy of the constitution, marked exhibit D, and prays the same may be taken as part of this answer. Respondent states that the said Johannes Goesele, from the time of the forming of said association, to wit, on the fifteenth day of April, A. D. 1819, until the time of his death, was a member thereof, and that he left surviving him at Zoar, a son and heir-at-law named John Goesele, who was also a member of said association, and subscribed said articles of March eighteenth, A. D. 1824. In the year 1828 the said John Goesele voluntarily removed from Zoar, and from thence hitherto he has had no transaction with said association. Upon his removal from Zoar he went to Pittsburgh, in the State of Pennsylvania, where he remained for many years; but where he resides at this time, respondent does not know. In the year 1846 an amendment to said act of incorporation was obtained; a copy of which said amendment respondent herewith exhibits, marked "E," and prays that the same may be taken as part of this answer.

The defendant further answering states, that the said constitution was regularly and formally adopted by said society, in pursuance with the said act of incorporation; and from thence hitherto the society of Separatists of Zoar has been a corporate body, and as such has adopted a common seal, has sued and been sued as such, and has continued to elect its officers. The defendant insists that the voluntary association

has become merged in the corporation, and that the said corporation ought to be made a party defendant.

Further answering the defendant states, that the said tract of 5,500 acres so purchased from Godfrey Haga was, in the course of time, fully paid for by the labor and means of the members of said society, and that the title thereof was vested in this defendant, by conveyance from the said Haga, and yet remains nominally in this defendant, but the defendant does not now claim, and never has claimed, that the same belongs exclusively to himself; on the contrary thereof, he has always declared and admitted that he holds the same in trust for the said society, and has no greater beneficial interest therein than any other member of the society.

The defendant further answers, that besides the said 5,500 acres, the said society has purchased and now owns about three thousand five hundred acres, the title to which is also in this defendant, subject to the same trust. At the commencement or first formation of the society its total means, made up by the joint property of its members, were quite limited; but in the course of nearly thirty years, during which it has continued to exist, its property, real as well as personal, has greatly increased. Besides the cultivation of the soil, the society has engaged in various branches of manufacture and in merchandise, which are now actively and successfully carried on. During the time it has been in existence, both before and since its incorporation, many changes have taken place in the body of the society by death, withdrawals, expulsions, and admissions of members.

Further answering respondent states, that the lands of said society have been highly improved by the associated labor of its members, and that the improvements, consisting of houses, mills, and manufactories, and large fields of arable meadow and pasture, have been made in reference to a joint and common ownership, and are incapable of partition or division among the individual members. Besides this, the habits of the members, formed during a long series of years, render them in a great measure unfit for any other mode of life. According to the economy of the society the labor of the members is very much divided, and the various branches of rural and domestic operations are kept separate, each part contributing to the common benefit. In addition to all this, very many of the members have become superannuated, as well males and females, whose condition, now quiet and contented, would be made almost insupportable if the community were broken up.

Respondent further states, that the members of said society have also a peculiar mode of worship, and in that particular, as well as in respect of their property and habits of life, are peculiarly suited to the entire communion of interests and separation from others which they have adopted.

Further answering respondent denies that the said complainants, or either of them, are entitled to any share or interest in the property of said society, real or personal, either in their pretended character of heirs at law of said Johannes Goesele, or otherwise howsoever, or that

they are entitled to any account or partition of the same. The respondent is advised to insist, and does insist, upon the following grounds of defence to said bill:

1. That the express surrender of all individual property, as stipulated for in the articles of association, prior to the act of incorporation, all which were agreed to and signed by the said Johannes Goesele, and the agreement that there should be no reclamation on the withdrawal or death of a member, are binding in law; and that upon the death of said Johannes, no interest in said property descended to his heirs.

2. That by reason of the purposes, objects, and business of said society, the same is to be taken as a general partnership, with the principle of succession engrafted upon it, and its property is, in a court of equity, considered as personalty, as to which the complainants, as heirs-at-law, are not entitled to an account or partition; but if any right thereto exists, the same can only be asserted by an administrator or personal representative of said Johannes Goesele.

3. That in virtue of the act of incorporatian, the entire property of the society belongs in equity to said corporation, and is considered as personalty, and no account or partition can be had upon the application of the complainant; but if at all, only by a personal representative.

In answer to said special interrogatories this respondent says:

First. The said land, purchased of Haga, was purchased with the understanding, at the time, that the same should be paid for by the means and labor of those of the Separatists who would settle upon it, and that each should have thereof in proportion to the amount which he or she should contribute towards paying therefor. After the forming of the association, said land which had been purchased from Haga, and also all property thereafter, and before the organization of the society, under the act of incorporation, was, by the agreement of all of said Separatists, held and acquired for the use of said association. After the organization of said society, under the act of incorporation, all property owned at the time of such organization, and all property subsequently acquired, has been held for the use and as the property of the society. The property has been paid for with products of the joint labor and means of members of said association and society. But respondent avers that said Johannes Goesele had no means, and that, being aged and infirm at and after the arrival of the Separatists at Zoar, his labor was not adequate to his support, and that he in no wise contributed to acquire or pay for said property, beyond the little sum which may have remained unexpended of the eighteen dollars contributed by the Friends in the city of Philadelphia to him to defray the expense of travelling from said city to Zoar.

Said second and third interrogatories are herein fully answered.

Fourth. The title papers to the property are in the possession of this respondent, as agent of the society.

Said fifth interrogatory is herein before answered.

Sixth. Respondent has, since the arrival of the Separatists in America, acted as their agent at their request and by their appointment.

Seventh. None of the persons associated, as herein before stated, sold their interest to said Goesele and his associates. Some members who have withdrawn, have received upon the voluntary motion and action of the association and society small sums in property and money; on one occasion money was given by the association to some members who had withdrawn, pursuant to the award of arbitration.

Eighth. Many of the persons associated as Separatists have died, and are named upon the schedule herewith exhibited, marked "F." They had no interest in the property other than what pertained to them as members of the association or society. Respondent denies all fraud, and having made full answer, prays to be hence dismissed with his costs, &c.

J M. BIMELER,
T. EWING, and
HENRY STANBERY,
Solicitors for respondent.

THE STATE OF OHIO,
Tuscarawas county, ss.

I, Joseph M. Bimeler, being duly affirmed, say, that all the several matters and things stated in the foregoing answer, as from the information of others, I believe to be true, and that all the several other matters and things therein stated are true in substance and fact.

J. M. BIMELER.

Affirmed to and subscribed before me, this first day of January, A. D. 1848.

JAMES G. TINKER, *J. P.*

The following are the exhibits referred to in the foregoing answer of Joseph M. Bimeler, and filed therewith and made a part of the same, to wit:

Exhibit A. *Exhibit A.*

Translation of the articles of association of the society of Separatists of Zoar, Tuscarawas county, Ohio, adopted by its members April 15th, 1819.

The undersigned, members of the society of Separatists, have, from a true christian love towards God and their fellow-men, found themselves convinced and induced to unite themselves according to the christian apostolic sense, under the following rules, through a communion of property; and they do hereby determine and declare that, from the day of this date, the following rules shall be valid and in effect.

Article 1. Each and every member does hereby renounce all and

every right of ownership of their present moveable and immoveable property, and leave the same to the free disposition of the directors of the society, elected by themselves.

Article 2. The society elects out of its own members their directors and managers, who shall conduct the general business transactions, and exercise the general duties of the society. They therefore take possession of all the active and passive property of all the members, whose duty it shall be at the same time to provide for them; and said directors are further bound to give an account to the Society of all their business transactions.

Article 3. All the members of the society do hereby promise to render due and faithful obedience to the orders and regulations of their directors, and to support them as much as possible in all the common business transactions of the society.

Article 4. Casual contentions and disputes shall be decided by the aforementioned directors, which shall be done by a majority of them, in case they themselves are not accused or implicated in the same. Should this be the case, then the society elects one or more persons in the room of those who may be partial, until the number of three, five, or seven, is filled.

Article 5. Backsliding members cannot, either for property brought in, nor for their labor in the society, demand any compensation or restitution except a majority of the society shall be willing to allow that, or those backsliding members a reasonable compensation.

Article 6. The society can or may increase or reduce the number of its members, according to its own best judgment; such, however, shall always be founded on union and the preservation of the society.

Article 7. The elections will be held annually, and indeed according to the laws of the State of Ohio.

Attested by the directors:

JOHN BREYMAIER,
JOHN GEORGE ACKERMAN,
AUGUST HUBER.

ZOAR, STATE OF OHIO, *April 15th,* 1819.

Signed by the following members:

Male members.

John Breymaier, John Bortch, Jeremiah Hoyd, John Neff, sen., Michael Sindlinger, sen., John George Ackerman, John George Grotzinger, Jacob Schasher, Jacob Geunne, Jacob Harr, John George Schandy, Michael Sindlinger, jr., Thomas Mayer, Jacob Fr. Weid, Philip Sell, John Zimmerman, John Meyer, John George Naedele, Xaver Feiker, John Gasely, sen., John George Boehringer, Jacob Waltz.

Male members continued.

Samuel Fritz, John Henger, G. Jacob Scyfang, George Gasely,

Jacob Kaemmerle, Ferdinand Gasely, August Huber, Christian Meagele, John Miller, John George Sindlinger, George Frederick Sindlinger, Charles Raiser, David G. Scyfang, Godfrey Lentz, Christian Gersteneider, Caspar Felter, Godfrey Ackerman, John Godfrey Buntzhaff, Michael Felter, Stephen Huber, Jos. Frederick Barkofer, John Bley, J. Godfrey Kapple, J. George Jans, John Neff, Lewis F. Birk, Martin Richly, John George Gasely, Sebastian Naedele, Christian Weishaar, John George Lutz.

Female members.

Anna Maria Fritz, Dorothe Weid, Barbara Ackerman, Christiana Sindlinger, Anna Barbara Sindlinger, Catharina Sindlinger, Elizabeth Schroaeble, Barbara Shock, Rosina Neff, Catharina Neff, Barbara Neff, Catharina Vossler, Catharine Reily, Anna Maria Hoyd, Rosina Catharina Holderreith, Rosina Regina Holderreith, Maria Agnes Bader, Dorothea Newbrand, Margaret Meyer, Johanna Flad, Christina Folter, Gottliebe Zimmerman.

Female members continued.

Catharina Ruof, Johanna Morth, Christina Magdalena Bacher, Maria Magdalena Aloss, Agatha Wintergerst, Eve Klingler, Christiana Gaseley, Anna Maria Gerstenecker, Sabina Wagner, Maria Barbara Wern, Catharina Miller, Christiana Strickbel, Anna Maria Naedele, Maria Kohnly, Anna Maria Felter, Itta Faupel, Anna Gerstenecker, Jacobina Huber, Elizabeth Waltz, Margaret Henger, Wilhelmina Huber, Barbara Miller, Elizabeth Fritz, Christiana Barbara Heckerman, Anna Maria Link, Elizabeth Farion, Maria Anna Wintergerst, Christiana Plaz, Anna Maria Felter, Barbara Felter, Anna Maria Schneider, Agnes Schneider, Anna Barbara Auch, Agnes Zahnor, Maria Dorothea Ott.

Female members continued.

Ursula Lauter, Maria Agnes Ackerman, Anna Barbara Reif, Dorothea Huber, Judith Huber, Catharina Wern, Anna Maria Sindlinger, Anna Maria Felter, jr., Regina Catharina Zeller, Christian Zeller, Margaret Bohringer, senr., Magdalena Koesser, Dorothea Felter, Margaret Henger, jr., Anna Maria Lutz, Anna Maria Morlock, Anna Catharine Lutz, Margaret Ackerman, Catharina Fruth, Dorothea Magdalena Hau, Christina Barbara Ackerman, Barbara Wagner, Catharine Beelor, Sarah Luepple.

Female members continued.

Anna Maria Platz, Christina Felter, Margaret Boehringer, jr., Anna Maria Hoyd, Anna Maria Hau, Barbara Bertch, Maria Agnes Bader, Magdalena Auch, Catharina Kohler, Elizabeth Margaret Hayenlock, Dorothea Naedele, Barbara Naedele, Anna Maria Stahleeker, Marga-

ret Newbrand, Barbara Peterman, Maria Agnes Baner, Christina Waltz, Elizabeth Martini, Catharina Dapp, Anna Maria Ackerman, Carolina Holderreith, Barbara Riehle, Catharina Fritz.

Exhibit B. *Exhibit B.*

Translation of the articles of association of the society of Separatists of Zoar, Tuscarawas county, Ohio, adopted by its members March 18th, 1824.

In the name of God, the Father, and Jesus Christ, the Son, and the Holy Ghost. Amen!

We, the undersigned, inhabitants of Zoar, and its vicinity, in Tuscarawas county, and State of Ohio, being fully persuaded and intending to give more full satisfaction to our consciences, in the fulfilment of the duties of christianity, and to plant, confirm, and establish the spirit of love as the bond of peace and union for ourselves and our posterity forever, as a safe foundation of social order, do seek and desire, out of pure christian love and persuasion, to unite our several personal interests into one common interest, and, if possible, to avoid and prevent lawsuits and contentions, or otherwise to settle and arbitrate them under the following rules, in order to avoid the disagreeable and costly course of the law as much as possible:

Therefore, we unite and bind ourselves by and through this common and social contract, under the name and title of "*the Separatist society of Zoar;*" and we agree and bind ourselves, and promise, each to the other, and all together, that we will strictly hold to, observe, and support all the following rules and regulations as faithfully as it ever may be possible. In like manner do we promise to support and warrant any such new articles, amendments, or alterations, which may be in favor of the above expressed intentions, if such should be added to these articles and obtain the consent of the several members and subscribers hereof:

Article 1. We, the undersigned, members of the second class of the society of Separatists, declare through this first article the entire renunciation and resignation of all our property of all and every dimensions, form, and shape, present and future, moveable or immoveable, or both, for ourselves, our heirs, and our posterity, with all and every right of ownership, titles, claims, and privileges, to the aforesaid society of Separatists, with the express condition, that from the date of the subscriptions of each member, such property shall be forever, and consequently, also, after the death of such member or members, remain the property of the said Separatist society.

Article 2. We hereby declare that each male person at the age of twenty-one, and each female at the age of eighteen years, being possessed of the requisite qualities, and signing these articles, may become members of this society; new members will be admitted through and by the following form, but it will be necessary for them, as well for the

first members to resign all their property, as well for themselves as for their posterity, honestly and faithfully, and to renounce all their rights, titles, and claims entirely, and to make over the same to the directors of the society; concealed debts of such new members will not be paid by the directors of this society, but shall fall back to such members who may have contracted them. In other respects, however, such new members shall have full claim to equal treatment and enjoyment with the rest.

Article 3. The society elects their own directors, and their successors in office, who do take and shall take all the property, as well that of the individual members, as also that of the whole society, with all the rights, titles, benefits, and claims of all and every description, be the same present or in future, moveable or immoveable, with all their authorities and powers, into their disposition, and who are hereby required to hold and manage the same expressly for the general benefit of this society, and according to the prescriptions of these articles, and which they shall conscienciously apply, as aforesaid, to the best of their skill and understanding. They, the said directors, shall be in duty bound to consult upon and to conduct the whole economy of the society; they shall have power to trade, to purchase, and to sell; to conclude contracts, and dissolve them again; to allow and give orders; to which, however, they shall all have to agree, and obtain the consent of the cashier thereto. The said directors shall further conduct and regulate the laboring part of the business of the society; and they shall have a right whenever it may be necessary, to appoint agents or sub-agents for the purpose of doing or causing such business to be done, such as they may find suitable and necessary. They, the said directors, shall also conduct the entire provision of all and every member in boarding, clothing, dwelling, and other necessaries of life, in such proportion as the situation, time, and circumstances may require.

Article 4. We, the undersigned, promise and bind ourselves, diligently, and in the most faithful manner, to obey the orders and regulations of the directors and their agents, without opposition or murmuring; we further agree to apply all our strength, good will, diligence, and skill, during life, to the general benefit of the society, and to the satisfaction of said directors. In like manner do we promise and agree, under the same expressions and determinations, our children during the time of their minority to be subjected to all their regulations and dispositions of the aforesaid directors, not only as it regards labor and their provision, but also to any other kind of labor, employment, or engagement in or out of the society, as long as they are minors, or as long as said directors may find it best so to do; and the directors shall have the same power so to do, as soon as they may find it suitable and more beneficial to do so, as if the parents of such children had done this themselves. For the binding of children out of the society, however, a majority of the votes of the members must first be obtained.

Article 5. This article entitles and empowereth the directors of the

society and their successors in office, in the name of the society, to receive and take charge of all inheritances of deceased members, together with all the rights, titles, and claims, in and to the same, and to ask, demand, and hold the same; in short, they shall have full right to act as universal heirs in the name of the society, with full right and power, even as if such deceased persons were yet living, and did themselves ask for, demand, and receipt for the same; consequently, the children, friends, or relations cannot become heirs of their parents, friends, or relations, since all the property of the members is by them doomed to be, and remain forever the property of this said society. The directors of said society are further, by this 5th article, entitled and empowered to appoint other suitable persons under them, even out of the society, and empower them to collect, or cause others to have collected, properties, goods, or moneys belonging to members who may yet be living, as well as such who may be deceased, and to receipt, or cause them to be receipted for the same, even as if the person or persons for whom it was done, had collected, taken charge of, and receipted for the same themselves.

Article 6. Casual contentions or disputes between two or more members shall be made known to the directors of the society, and shall be by them investigated, and decided according to the majority of their vote. Should, however, the dispute of any member or members be against more than one of the directors themselves, then the parties shall have a right to appeal; or if any of the parties should not be satisfied with the decision of two disinterested directors, then such party may proceed to an appeal, which appeal shall be and consist in the following form:

Article 7. There shall be a board of arbitration or court of appeal elected by the society, who shall be empowered and established by this article; such board may consist in from one to three persons, and shall be elected by the society, and through a majority of votes. Said board shall be invested with the highest and concentrated power of the society, whose organ or instrument it shall actually be. Said board of arbitration, may it consist in one, two, or three persons, shall be bound to observe all the different branches of economy of the society, and whenever they may find it necessary to give orders and instructions to investigate accounts and plans which may have been made by the directors, or their agents; in short, all transactions of importance, and of the value of more than fifty dollars, shall have to obtain the consent of said board of arbitration before they shall be considered binding and valid. The decision of said board of arbitration, in all kinds of litigation, without any acceptance, shall be treated and considered as final and conclusive; whosoever acts contrary, and will not be satisfied with their judgment, shall forfeit and lose all the enjoyments and rights of a member; and such member further hereby binds itself, (in case he or they apply to any court of justice for a decision out of the society,) to pay to said society all the damages accruing by such application, besides the costs accruing to said society by reason of such suit in law

Said board of arbitration shall further have power in the name of the society, according to the result of circumstances, and when sufficient complaints have been adduced by the directors, to *to* excommunicate arbitrary and refractory members, to cross out their names and signatures, and to deprive them of all future enjoyments of the society. In like manner shall such arbitrators determine upon the sum or sums which such excommunicated person or persons shall have to pay to said directors for damages caused by them to said society, for which purpose, the directors of said society shall hereby be empowered, (in case of a refusal or non-fulfilment of this article,) to take legal measures in law against such excommunicated and refractory member or members, and to force them to the fulfilment of this duty, and to the payment of damages as above mentioned, through the existing form of the general laws of the land. All the judgments given by said board of arbitrators, under the form and circumstances above mentioned, shall be made out in writing, and carried into a book prepared for that purpose, and shall in all courts of justice be considered valid, effective, and irrevocable.

Article 8. Each person desiring to become a member of this society must first be of full age, that is, each male person must be twenty-one, and each female person must be eighteen years of age, or more. Application for being admitted as member must be made to one or more of the directors, who shall examine into the reasons, grounds, and capability of such applying person or persons; and, if they find no direct cause of objection against such person, they shall give notice of such application to the board of arbitration, and shall invite such person to appear at a certain time and place, and, if then no impediment shall be found, and at least two-thirds of the society shall vote for the reception of such person, then the applicant shall be by said board of arbitration admitted to sign these articles of association.

Article 9. The election for arbitrators and directors shall be held as often as the society may deem it suitable and necessary, and without having first determined upon any particular form for the same. There shall at all times, if possible, be three directors in office, yet for the want of one, two shall be capable of transacting business; and each candidate for said office must at least have been a good member of the society for five years previous, and must have proven a good moral character. A member of the board of arbitration must have been a member of the society for at least ten years previous, and must have lived without blemish as much as possible, if he shall be considered eligible. This shall, however, not be counted from the date of the signatures of these articles, but from the time of reception and free exercise of the general principles of the Separatists. Members of the board of arbitration must be members, but they may be non-subscribers; directors, however, must be both members and subscribers to these articles. All subscribers, male and female, have a right to vote at elections, except if any one, by disorderly deportment, should have rendered himself for a time, or even forever, unfit for said purpose, and on which the directors in office, or for want of them the board of arbi-

tration, shall have to decide. The officers shall be elected and established by a majority of the votes, consequently the highest power shall be and remain forever in the hands and disposition of the society, who does hereby reserve the right at pleasure to remove and to establish officers, or to place others in their stead; in short, to make any alterations which may be deemed best.

Article 10. The society keeps or elects its own cashier, whose duty it shall be to manage their receipts, moneys, and expenditures; and besides him, no one shall be entitled to keep any moneys without the order of the cashier. Even the directors shall, without delay, deliver all moneys, notes, bonds, and such like (as property belonging to the society) into the hands of the cashier. Every transgressor of this provision may be accused by any member or other person before the board of arbitration, who shall by them be treated and dealt with according to the provisions of the seventh article. The cashier is further bound to apply all moneys, which may come into his hands by the order of the directors and arbitrators, to the benefit of the society, to pay their debts, and to liquidate their general wants.

Article 11. Individual demands which may either be made by backsliding members, or by such who, on account of disorderly deportment, may have been excommunicated, may such demand consist in money, goods, or other effects, under whatever name it may be, shall be by this article, for ourselves as well as for our posterity, forever abolished and abrogated. Neither shall there be any demands made to the society by any one for any remuneration for services nor wages for any labor done for said society. All attempts made with this intent shall be confined to the provisions of the 7th article. All deficiencies and equivocations in these by-laws shall never be explained in favor of the complainants or accusers, but shall always be translated and explained to the benefit of the society, and be treated in the same manner. All decisions and judgments passed by the board of arbitrators shall, in all and every case, be binding, valid, and have their full force. Disputes between directors or members, or between both, shall also be decided by the board of arbitration.

Article 12. Those articles made, established, and adopted on the 15th day of April, 1819, shall be treated and considered as the basis and foundation of these present articles; they shall be valid and in force until the signing of these present ones, and shall also be and remain the same to all those who had signed them; and these present articles shall only represent a more detailed explanation of the former, but in no wise shall these be considered or explained as a contradiction of the same. Thus done in Zoar, Tuscarawas county, and State of Ohio, this eighteenth day of March, in the year of our Lord one thousand eight hundred and twenty-four, (1824.) The signatures of the members are hereby witnessed by the directors of the society in office at the time.

John George Ackerman, Jacob Schacher, Michael Sindlinger, directors; J. M. Bimeler, arbitrator.

Male members.

Jacob Schacher, Michael Sindlinger, John Zimmerman, John Miller, John George Groetzinger, Haver Ficker, Jacob Kaemmerle, John Henger, John George Shandy, John Caspar Felter, Jacob Waltz, David Gottlob Scyfaug, Ferdinand Gasaley, John George Sindlinger, Christian Wm. Mengele, John Breymaier, Lewis F. Birk, John Gaseley, senr., Godfroy Kuppel, John George Bohringer, John George Gasely, Michael Felter, John George Ackerman.

Male members continued.

George Jacob Scyfang, Charles Raiser, John George Lutz, John Neff, Christian Weishaar, Martin Richle, Sebastian Naedele, John G. Jaus, John Felter, Thomas Meyer, Philip Sell, Godfrey Lentz, Jacob Hair, John Christopher Platz, Jacob Frederick Gaseley, Frederick Sindlinger, John Neff, senr., John Daniel Felter, Stephen Huber, John Jacob Ackerman, Christian Ruof, Matthew Beeler, John Gaseley, Christian Hileman, John Sindlinger, Jacob Fritz, Henry Ottellie, John Gaseley, jr., John Caspar Felter, John Peter Bimeler, Jacob Sheering, Caspar Beirer, John Michael Miller, John George Ackerman, John George Ruof, Matthias Hileman.

Female members.

Maria Barbara Wern, Anna Barbara Reif, Christina Catherina Ruof, Anna Maria Schneider, Agatha Wintergerst, Barbara Miller, Dorothea Newbrand, Rosina Neff, Anna Maria Morlock, Elizabeth Fritz, Barbara Sindlinger, Margaret Reif, Barbara Pfahler, Wilhelmina Hofmeister, Anna Maria Näedele, Itta Faupel, Catharina Richle, Rosina Regena Holderreith, Jacobina Huber, Christina Barbara Ackerman, Anna Maria Ackerman, Barbara Peterman, Christiana Sindlinger.

Female members continued.

Catharina Vossler, Magdalena Kaesser, Christina Felter, Dorothea Näedele, Anna Maria Hoyd, Anna Maria Felter, Catharina Wern, Catharina Miller, Anna Maria Harr, Catharina Sindlinger, Rosina Catharina Holderreith, Christina Zeller, Catharina Zeller, Elizabeth Martini, Anna Maria Link, Margaret Newbrand, Barbara Neff, Barbara Auch, Barbara Ackerman, Margaret Böehringer, Sarah Margaret Lapple, Barbara Bortch, Maria Anna Wintergerst, Maria Agnes Bader, Maria Sindlinger, Elizabeth Margaret Hagenlock, Barbara Domer, Maria Magdalena Miller, Agnes Lahner, Maria Kohler, Dorothea Weid, Catharina Dapp, Anna Maria Platz, Christiana Weiss, Maria Dorothea Deitz, Margaret Henger.

Female members continued.

Maria Magdalena Aloss, Dorothea Felter, Christina Waltz, Anna Maria Fritz, Margaret Meyer, Maria Agnes Bader, Johanna Flad,

Margaret Ackerman, Elizabeth Dorothea Farrion, Carolina Holdereith, Catharina Henger, Catharina Beeler, Catharina Waltz, Anna Maria Bohringer, Barbara Felter, Anna Maria Felter, Christina Felter, Barbara Näedele, Johanna Mock, Ursula Lanter, Anna Maria Heyd, Anna Barbara Wagner, Barbara Richle, Catharina Neff, Carolina Neff, Agnes Ackerman, Maria Felter.

Female members continued.

Dorothea Huber, Catharina Fritz, Dorothea Harr, Judith Huber, Louisa Raiser, Gottliebe Raiser, Catharina Fogle, Barbara Meyer, Christina Walter, Anna Maria Miller, Catharina Felter, Catharina Auch, Johanna Lindeman, Eve Ackerman.

Exhibit C. Exhibit C.

An act to incorporate the society of Separatists of Zoar, Tuscarawas county.

Sec. 1. Be it enacted by the general assembly of the State of Ohio, that Joseph M. Bimeler, John G. Groetzinger, Jacob Seyfang, Michael Felter, Christopher Platz, John George Lebold, Solomon Sala, George Ackerman, Jacob Waltz, Christian Hingler, John Neff, Lewis F. Birk, Philip Sell, George Ruof, Godfrey Kapple, Christian Weibel, Conrad Lebold, John C. Felter, John Miller, and John Fogle, and their associates, be, and they are hereby, created a body corporate and politic, by the name of "The Society of Separatists of Zoar," with perpetual succession; and by their corporate name may contract and be contracted with, sue and be sued, plead and be impleaded, defend and be defended, in all courts of law and equity in this State and elsewhere; may have a common seal, which they may break, alter, or renew at pleasure; shall be capable of holding property, real, personal, and mixed, either by purchase, gift, grant, devise, or legacy, and may sell, alien, dispose of, and convey the same; and the property and other concerns of the corporation shall be under the management and control of the trustees appointed for that purpose; and said corporation shall have power to form a constitution and adopt by-laws for its government, to prescribe the number and title of its officers, and define their several powers and duties; to prescribe the manner in which members may be admitted and dismissed, and all other power necessary for its corporate concerns: Provided, that said constitution, by-laws, rules, and regulations, be consistent with the Constitution and laws of the United States, and of this State; and provided, also, that the clear annual income of said society shall not exceed one thousand dollars.

Sec. 2. That the persons named in the first section of this act, or any three of them, may call a meeting of said society, by giving ten days notice thereof, by advertisement set up at the place of public worship in the village of Zoar, for the purpose of forming a constitution and adopting by-laws for the government of said society, and of doing

such other business as may be necessary for the efficient management of said corporation.

Sec. 3. That the members of said society, or such number of them as by such by-laws shall be necessary, shall meet annually, on the second Tuesday of May, at the place of holding public worship, for the purpose of electing officers of said corporation.

Sec. 4. That any future legislature may amend or repeal this act, provided such amendment or repeal shall not affect the title of any real or personal estate acquired or conveyed under its provisions, or divert the same to any other purpose than that originally intended.

W. B. HUBBARD,
Speaker of the House of Representatives.
WM. DOHERTY,
Speaker of the Senate.

February 6th, 1832.

SECRETARY OF STATE'S OFFICE,
Ohio, Columbus, June 14, 1845.

I, Samuel Galloway, secretary of State, do hereby certify, that the foregoing act is truly copied from the original on file in this department.

In testimony whereof I have hereunto subscribed my name, and caused the great seal of the State of Ohio to be affixed, this 14th day June, A. D. 1845.

SAMUEL GALLOWAY,
Secretary of State.

Exhibit E. Exhibit E.

Amendment to the foregoing charter.

An act to amend the act entitled an act to incorporate the society of Separatists of Zoar, in Tuscarawas county.

Sec. 1. Be it enacted by the general assembly of the State of Ohio, that so much of the second section of the act, entitled "An act to incorporate the society of Separatists of Zoar, Tuscarawas county," passed February sixth, one thousand eight hundred and thirty-two, as limits the clear annual income of said society to one thousand dollars, be, and the same is hereby, repealed, and said society are hereby authorized to receive a clear annual income of any sum not exceeding ten thousand dollars.

Sec. 2. That if said society for any cause shall not elect officers on the day specified in said act, then any five members of said society may order an election, by giving at least ten days notice, by posting up printed or written notices of the time and place of holding such elections, in three of the most public places in the village of Zoar, one of which shall be at the place of holding public worship.

Sec. 3. The fourth section of the act, to which this is an amendment, be, and the same is hereby, repealed.

Sec. 4. This act shall take effect from and after its passage.

ELIAS F. DRAKE,
Speaker of the House of Representatives.
SEABURY FORD,
Speaker of the Senate.

February 21st, 1846.

SECRETARY OF STATE'S OFFICE,
December 12, 1846.

I hereby certify, that the foregoing is a correct copy of the original rolls now on file in this office.

SAMUEL GALLOWAY,
Secretary of State.

Exhibit D. Exhibit D.

Translation of the constitution of the society of Separatists of Zoar.

Introduction to the constitution of the society of Separatists of Zoar.

Pursuant to an act of the legislature of the State of Ohio, passed A. D. 1832, No. 126, entitled An act to incorporate the society of Separatists of Zoar, Tuscarawas county, Ohio, we, the undersigned, members of said society of Separatists of Zoar, and its vicinity, have found it expedient to renovate our hitherto existing constitution, as contained in the following articles:

In the name of God, the Father, and Jesus Christ, the Son, and the Holy Ghost. Amen.

In order furthermore to secure to our consciences that satisfaction proceeding from the faithful execution of those duties which the christian religion demands, and to plant and establish the spirit of love as the bond of peace and unity for a permanent foundation of social order, for ourselves, and our posterity, forever, we, therefore, seek and desire, in accordance with pure christian principles, to unite our various individual interests into one common stock; and, conformable with the example of the primitive christians, all inequalities and distinctions of rank and fortune shall be abolished from amongst us, and consequently to live as brothers and sisters of one common family.

Pursuant to the foregoing principle and resolution, we voluntarily unite and bind ourselves by this joint agreement, under the name and title of "Society of Separatists of Zoar," and we obligate ourselves, each to the other, that we will hold to the following articles and rules; that we will observe and support the same to the best of our abilities, which, from the day of the date hereof, shall be in force and virtue in law.

Article 1. Regulating elections.—All elections for the divers neces-

sary officers of the society shall, agreeably with the provision of the act of incorporation, be held on the second Tuesday of May annually, and, in accordance with the statute of the State of Ohio, be decided by ballot and majority of votes. On said election day shall annually be elected one trustee, (extraordinary circumstances excepted;) annually, one member of the standing committee; quadrennially, one cashier; and an agent general, unlimited in term, as long as he possesseth the confidence of the society. The time and place when and where the elections shall be holden, also the number and kind of officers to be elected, shall be made known by the trustees of the society at least twenty days previous to the election; for which purpose the society, or any ten members thereof, shall at each election appoint a committee of four persons whose duty it shall be to conduct the election in conformity with the laws of this country. The society shall elect all its officers from amongst the members thereof, whereby special reference shall be had to the necessary and requisite qualifications, integrity, and faithfulness of the candidates.

Article 2. Election of trustees, and their duties.—The society shall elect, from amongst its members, three suitable persons as its directors or trustees, and their successors in office, who shall take charge of the joint property of all the undersigned members; said trustees shall, as stated in the first article, be elected by majority, and agreeably to the following regulations—the majority for three years; second majority for two years; and third majority for one year; and after the expiration of one year, annually one trustee. Should the case occur that two or more candidates of one and the same office receive an equal number of votes, then the balloting shall be repeated until a legal majority shall be obtained. Each trustee may remain in office for three years in succession, unless circumstances to the contrary, such as death, sickness, absence, refusing to serve, &c., render such impossible, or, in any case, the misconduct of any one of the trustees cause the society to discharge one or the other, and to fill such vacancy as said society may choose; which right of discharging and replacing the said society reserves to itself, before the expiration of the ordinary term of three years, or even of one year; yet each trustee shall remain so long in office until his successor be chosen. Said trustees are hereby empowered, and in duty bound, to take charge of all the property, real and personal, which this society either now or in future may possess, including all property of newly accepted members, moveable and immoveable, of whatever name and description it may be; likewise are they authorized to receive all kinds of legacies, donations, and personal claims; in fine, every species of property to which any one of the members may at any time have just claim, to demand and collect the same by legal proceedings, and shall appropriate and apply the same conscientiously, to the best of their knowledge and skill, in behalf, and for the exclusive benefit, use, and advantage of said society. And it shall also be the duty of said trustees carefully to furnish each member, without respect to persons, with board, clothing, and dwelling, and other necessaries, alike,

in days of sickness and of health, as good as circumstances will allow. Said trustees shall furthermore take charge of the economical affairs of this society; to consult over and direct all the business, and consequently to assign to each individual member its duty and work to be performed; to which at least the majority of said trustees, if not all, shall be agreed. Said trustees are hereby empowered to appoint sub-trustees or agents, as many and to whatever purpose they may see proper and necessary; and all such sub-trustees or agents shall be responsible to the said trustees for all their transactions. Said trustees shall fill the different branches of economy with suitable persons, who shall conduct the same, subject to the control of said trustees, and liable to like responsibility for the conduction thereof as other sub-trustees or agents. But all resolutions, in regard to important undertakings, shall be submitted to, and be subject to the approbation of the standing committee; and said trustees shall, at all times, be responsible for all their transactions to said standing committee. Casual discord, differences, and misunderstandings, shall throughout, by way of arbitration, be settled amicably by the trustees of said society; in case that this cannot be accomplished by and through said trustees, then the court of appeals, cited in subsequent articles, shall solely decide. And the said trustees are, by this article, bound to maintain and promote peace and order in the society; they are furthermore hereby authorized to propose to the board of arbitration, or standing committee, such regulations and improvements calculated to facilitate those purposes; and if a majority of both bodies approve of the measures thus proposed, as proper and necessary, they shall thereupon be recommended to be observed as such, provided that such amendment be in no wise contradictory to these articles.

Article 3. Election and duties of the agent general.—In order partly to simplify, and likewise in many instances to ease the business and duties of the trustees, the society shall elect an agent general, who shall act for and in the name of the said society; he is hereby authorized to buy and sell, make and conclude contracts, and to discontinue and annul them again; to employ agents beyond the circle of the society, and to correspond with them; also to issue and again to accept orders; to direct and superintend, to the welfare of the society, all its trading and commercial concerns; in fine, all affairs which in any wise appertain to the aforesaid line of business, of whatever name, shape, and descriptions they may be, and shall be carried on under his direction and superintendence; in like manner shall all the manufactures and similar works be under his superintending care, to the furtherance and improvement of which he shall pay due regard, and to regulate them in such a way and manner as he shall, from time to time, find it most conducive to the general good of said society; the agent general shall furthermore be entitled to appoint sub-agents, when and as many as he shall stand in need of, who shall be empowered to transact in his name all such business as he shall see proper to charge them with; and said sub-agents shall be held responsible to the agent general for

all their transactions; and the said agent general shall, in appointing sub-agents, act by and with the consent of the trustees, whose concurrence shall also be necessary in all undertakings of moment and importance; and for the due administration of the powers and duties hereby committed to his care and charge, he shall be accountable to the standing committee of the society; all deeds, mortgages, and similar instruments of writing shall be executed in the name of the trustees, and be placed to the safe keeping of the agent general.

Article 4. Election and duties of the standing committee.—By virtue of these articles, the society shall elect from amongst its members a standing committee, which shall consist of five persons, but in case a vacancy of one or two members thereof should occur, either by death, sickness, absence, or otherwise, then the three remaining members shall be capable of transacting business until the next succeeding election; this committee shall be invested with the concentrated power of said society, and shall execute all those duties which are marked out for it in this constitution; in all extraordinary cases shall this standing committee serve as a court of appeal, and shall, as the highest tribunal, be hereby empowered to decide as such, and the judgment thereof shall be final and binding in all cases: Provided, that no complaint shall be brought before it for its decision, except by way of appeal, that is, in case one or both of the contending parties should be dissatisfied with the decision of the trustees; trustees can never, at the same time, be members of this committee; the election of said committee shall be so regulated that annually one member to said committee shall be elected, and that each member may hold his office for five years successively, and are at all times eligible again as long as they possess the confidence of said society.

Article 5. Election of the cashier and his duties.—The society shall choose a cashier or treasurer, to be elected for the term of four years, and shall, after the expiration of such term, be eligible again so long as the society entrust him with the station; said cashier shall take charge of, and duly administer to all its financial concerns, and besides him, none of the members shall be entitled to hold any money without order from the cashier; even the trustees and the agent general shall deliver up all moneys, notes, bonds, checks, &c., as belonging to the society into the treasury without delay; and every transgressor of this provision shall, by any member or person whosoever, be prosecuted for the same before the trustees of the society, and shall be treated by them according to the provisions of the tenth article; it shall also be the duty of the cashier to appropriate and apply all moneys received, conformable to the directions of the trustees, the agent general, and the standing committee, exclusively, to the benefit of the society; to pay the society's debts, defray its general necessaries, and to credit said trustees with the surplus fund; all and every person who has charge over any one or more of the branches of economy, shall hand in their accounts to the cashier at such times as he shall see proper to order the same; and the trustees are hereby entitled to request from the cashier an annual ac-

count of his transactions if they deem it necessary; the cashier shall have the right, if circumstances require it, to appoint a clerk to keep regular records of elections, and of such other important measures which the divers officers shall deem necessary.

Article 6. Delivery of property and duties of the members.—We, the undersigned, members, second class of the society of Separatists of Zoar, declare by these presents, that all our property of all and every description, which we either now, or in future may possess, moveable or immoveable, or both, together with all claims, titles, rights, devise, and legacies, &c., of whatever kind and name they may be, as well for ourselves as our descendants, heirs, executors, and administrators, shall be forever given up to said society, with the express condition that such property shall, from the date of the signatures of each member, forever henceforth, consequently after the death of each respective member, be, and remain, the exclusive property of said society; also do we promise and bind ourselves most faithfully and industriously to execute all the orders and regulations of said trustees and their sub-trustees, or agents, without opposition and murmuring; and we likewise agree to apply all our strength, good will, industry, and skill, for life, to the general benefit of said society, and to the satisfaction of the trustees; likewise do we promise and agree, under the same conditions and regulations, to place our children, whilst they are in a state of minority, under the directions and regulations of said trustees, in same manner as if they were legally bounden by lawful indentures to them and their successors in in office, until they shall have attained their proper age, as defined by the laws of this State.

Article 7. Acceptance of members.—In accepting new members the following rule and order is to be observed: Each and every person, wishing and desiring to become a member of the second class of this society, shall, first of all, have attained to the lawful age, that is a male person shall be twenty-one, and a female eighteen years of age; secondly, shall such person or persons have lived in and dwelled with the society for the term of at least one year, and shall have been a member of the first class of this society, (without exception,) if even born and educated in the society, and provided that they have faithfully fulfilled the contract previously concluded with the trustees of this society at their entrance into the first class; if such person or persons can show forth the aforesaid qualifications, and the resolution not being prematurely made, but who, by their own free will and accord, self-convinced, are so resolved, such person or persons shall make known their intention to one or more of the trustees, whose duty it shall be to hear such person or persons; and if, after having taken the applicant's motives into due consideration, no well founded causes for rejection or postponement be found, then said trustees shall make it known to the society at least thirty days previous, and appoint the time and place, when and where such signing shall be performed; and if, during such interval, no complaints or objections from the part of the society, or any of its individual members, against such person or person be made thereupon,

they may be admitted to the signing of this constitution; and after signing such, are thereby constituted members of the second class of the society, and shall be considered and treated as such: Povided, that in case such new members shall have kept secret any of *its* contracted debts, or other obligations foreign to the society, such members shall have forfeited all privileges and rights of membership, in case sufficient proof be found to establish the fact.

Article 8. Education institute.—In accordance with this article, the society shall keep or establish a general education institute for all the children in the community, at the head of which such male or female overseers shall be placed whose qualifications shall be found best suited for said purpose; and, agreeable to this proviso, all the parents of children in this society bind themselves, by these presents, to deliver up and place their children, after having arrived at the third year of their age, or sooner, to the overseers of said institution, where such children shall receive, according to their age and faculties, appropriate education and tuition. Said overseers shall be chosen and engaged by the standing committee, subject to the express duty that they shall exert their best endeavors and care to give those children, placed under their care, as well in moral as in physical consideration, the best possible education, thereby having in view not only the attainment of *of* scientific branches of knowledge, but also gradually train them to performing the divers branches of manual labor. And it is hereby made the duty of said committee to keep strict superintendence over the institution. And they shall also be authorized to place such children, as soon as their age, abilities, and bodily condition will permit, under the control of the trustees, who shall give them such employment as they may be able to perform.

Article 9. Power of the trustees to collect and take charge of heritages, &c.—This article authorizeth and empowereth the trustees, and their successors in office, in the name of the society, to hold and take possession of all remaining property of deceased members, with all their rights, titles, and claims whatsoever, to demand, or cause the same to be demanded and collected; and, finally, they are hereby invested, as the universal heirs in the name of the society, to act with full right and power as if such deceased person or persons were yet living themselves demanded and acquitted for the same; hence, the children, friends, and relations, whether they be in or without the society, cannot be or become heirs to such an heritage of a deceased member, since all property forever is and shall remain the portion of said society. And the trustees of said society are, and shall be, hereby authorized to empower other suitable persons, in or out of the society, to demand and collect, or cause to be demanded and collected, moneys, estates, and effects of persons, either yet living or deceased, in same manner as if such person or persons for whom such was done had themselves demanded and collected the same, received it, and receipted therefor.

Article 10. Contentions, &c.—Casual contentions between two or more members, and complaints of whatsoever kind and description they

count of his transactions if they deem it necessary; the cashier shall have the right, if circumstances require it, to appoint a clerk to keep regular records of elections, and of such other important measures which the divers officers shall deem necessary.

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they may be admitted to the signing of this constitution; and after signing such, are thereby constituted members of the second class of the society, and shall be considered and treated as such: Povided, that in case such new members shall have kept secret any of *its* contracted debts, or other obligations foreign to the society, such members shall have forfeited all privileges and rights of membership, in case sufficient proof be found to establish the fact.

Article 8. Education institute.—In accordance with this article, the society shall keep or establish a general education institute for all the children in the community, at the head of which such male or female overseers shall be placed whose qualifications shall be found best suited for said purpose; and, agreeable to this proviso, all the parents of children in this society bind themselves, by these presents, to deliver up and place their children, after having arrived at the third year of their age, or sooner, to the overseers of said institution, where such children shall receive, according to their age and faculties, appropriate education and tuition. Said overseers shall be chosen and engaged by the standing committee, subject to the express duty that they shall exert their best endeavors and care to give those children, placed under their care, as well in moral as in physical consideration, the best possible education, thereby having in view not only the attainment of *of* scientific branches of knowledge, but also gradually train them to performing the divers branches of manual labor. And it is hereby made the duty of said committee to keep strict superintendence over the institution. And they shall also be authorized to place such children, as soon as their age, abilities, and bodily condition will permit, under the control of the trustees, who shall give them such employment as they may be able to perform.

Article 9. Power of the trustees to collect and take charge of heritages, &c.—This article authorizeth and empowereth the trustees, and their successors in office, in the name of the society, to hold and take possession of all remaining property of deceased members, with all their rights, titles, and claims whatsoever, to demand, or cause the same to be demanded and collected; and, finally, they are hereby invested, as the universal heirs in the name of the society, to act with full right and power as if such deceased person or persons were yet living themselves demanded and acquitted for the same; hence, the children, friends, and relations, whether they be in or without the society, cannot be or become heirs to such an heritage of a deceased member, since all property forever is and shall remain the portion of said society. And the trustees of said society are, and shall be, hereby authorized to empower other suitable persons, in or out of the society, to demand and collect, or cause to be demanded and collected, moneys, estates, and effects of persons, either yet living or deceased, in same manner as if such person or persons for whom such was done had themselves demanded and collected the same, received it, and receipted therefor.

Article 10. Contentions, &c.—Casual contentions between two or more members, and complaints of whatsoever kind and description they

may be, shall be brought before the trustees, and by them examined and settled. But in case one or the other party should not be satisfied with the decision of said trustees, or should any one or more of the trustees themselves be involved in such contention, &c., then appeal may be had to the standing committee, or court of appeal, whose decisions shall in all cases be final and binding. Whosoever shall act contrary to this provision, and will not be satisfied with their judgment, looseth and debarreth him or herself of all further enjoyments and rights of a member.

Article 11. Seceding members.—Should any member or members find cause to secede from the society, they shall make known such their intention to one or more of the trustees, whose duty it shall be to notify the society thereof, in order that if any complaints be existing against such member or members they may betimes be brought forward to said trustees, who shall thenceforward act in respect to them agreeable to all the attending circumstances; but should any seceding member, unknowing to the trustees, have contracted any debt or debts upon the community, or been the cause of subjecting the society to any costs or injury, in such case said member or members shall make satisfactory restitution, or otherwise render such indemnification as the said trustees shall demand; and in case such seceder or seceders should not content themselves with the judgment of said trustees, and refuse to make such satisfactory restitution, in that case both parties, the trustees and seceding member, shall be entitled to an appeal to the standing committee, and the decision thereof shall in all cases be binding and final. Should any person or persons, notwithstanding this provision, be dissatisfied, and apply to a court of justice beyond the limits of the society for assistance, in such case they are also hereby bound to render due indemnification for all damages and loss of time thereby caused to, and sustained by, said society. In case any seceding person should refuse to comply with the demand of the trustees in pursuance of the decision of the standing committee, the trustees shall be authorized to prosecute such person or persons, and, by course of law, to bring them, or cause them to be brought, to the due fulfillment of the duty or payment as aforesaid. Furthermore, shall the committee be authorized to act in like manner with all those who, on account of acting contrary to duty and good order, have been expelled from the society, to expunge their names and signatures, and to excommunicate them from all further enjoyment and rights of a member of this society. Neither the seceding persons who leave the society of their own accord, nor those who are expelled therefrom, can ever, by virtue of their signatures, and by the provisions of this article, under no pretence whatever, in no wise make any demand, or obtain either upon property brought to the society, or for their labor, or any other services which they may have rendered the society, in whatever the same shall have consisted, notwithstanding any compensation whatever. Yet such person or persons may, if they choose, submit their pretensions to the standing committee, whose opinion shall decide whether or not, or under what condition, such ap-

plicants shall be entitled to receive any indemnity. All judgments of the committee, issued pursuant to the foregoing prescription, shall be made out in writing and recorded in a book to be kept for that purpose, which shall, in all courts of law and equity, be considered valid and incontestible. Each given judgment of said committee shall be handed over to one or more of the trustees, by virtue of which he or they are authorized to execute such judgment, or cause it to be executed, either on voluntary terms or by the ordinary process of law. This constitution shall never in any wise be broken or annulled by dissatisfied or seceding members.

Article 12. Concerning the constitution.—The society can at any time, whenever deemed expedient and necessary, alter this their constitution, or any one of the articles thereof, or add thereto, provided that such alteration or addition shall always be founded upon the principles of unity and conservation of the society, and only then practicable if at least two-thirds of all the members be in favor of it. In no wise shall this present renewed constitution ever be viewed as declaring or presenting ineffectual or void the articles signed by the members on the fifteenth day of April, 1819, and those on the eighteenth day of March, A. D. 1824; on the contrary, said articles shall be acknowledged as the basis to this present constitution. All unintelligibleness, equivocation, or deficiency which peradventure might exist in this constitution, shall always be construed and treated in favor of the society, and never to the advantage of individual members. At least annually, at a suitable time, shall this constitution be publicly read at the place of public meeting. Written and concluded in Zoar, Tuscarawas county, and State of Ohio, the fourteenth day of May, in the year of our Lord one thousand eight hundred and thirty-three.

Names of male members.

1 Joseph M. Bimeler,
2 Jacob Ackerman,
3 Caspar Felter,
4 John George Gaseley,
5 G. Jacob Scyfaug,
6 Christian Weebel,
7 Christian Ruof,
8 Lewis F. Birk,
9 Henry Ottellie,
10 Jacob Waltz,
11 Christian Weishaar, Jan. 23, 1843,
12 John George Ackerman,
13 David Gottlob Scyfaug,
14 Godfrey Kapple,
15 Ferdinand Gasely,
16 Jacob Harr,
17 Jacob Sheering,
18 John George Shandy (left,)
19 Christian Wm. Meagele,
20 Thomas Meyer,
21 Stephen Huber,
22 Michael Felter,
23 John George Boehringer, (left 1845,)
24 John Peter Bimeler,
25 John C. Felter,
26 Godfrey Lentz,
27 Jacob Fritz,
28 John Gaseley, (left 1845,)
29 Michael Miller,
30 John George Ruof,
31 Matthias Hileman,
32 Frederick Sindlinger,
33 John G. Grœtzinger,
34 John Breymaier,

35 Michael Sindlinger,
36 Christian Saiech,
37 Jacob Kaemmerly,
38 Matthias Beeler,
39 Martin Raushenberger,
40 Conrad Breymaier,
41 George Notter,
42 Henry Seltman,
43 Bernhard F. Siebee, (left,)
44 Matthias Mock,
45 Jacob Miller, (left,)
46 Simon Ehret, (left May 6, 1839,)
47 Thaddeus Kittel,
48 John George Fink,
49 David Peterman,
50 Jacob Branny,
51 John Breymaier, jr.

Names of female members.

1 Anna Barbara Rief,
2 Johanna Lindeman, formerly Bader,
3 Dorothea Dietz,
4 Margaret Ackerman, formerly Huebler,
5 Anna Maria Bierer,
6 Johanna Flad,
7 Anna Maria Schneider,
8 Anna Maria Hoyd,
9 Catharine Zeller,
10 Catharina Wern,
11 Ursula Birk, formerly Lauter,
12 Barbara Ackerman,
13 Barbara Auch,
14 Maria Kohule,
15 Catharina Dapp,
16 Margaret Reif,
17 Magdalena Ackerman,
18 Itha Fauplin,
19 Magdalena Auch,
20 Margaret Böhringer, jr.
21 Wilhelmina Hoffmeister,
22 Barbara Wagner,
23 Barbara Butch,
24 Margaret Böhringer, senr.
25 Anna Maria Felter,
26 Louisa Harr, formerly Raiser,
27 Maria Christiana Wern,
28 Marian Wintergerst,
29 Barbara Fritz, formerly Ackerman,
30 Agnes Zahner,
31 Anna Maria Morlock,
32 Dorothea Newbrand,
33 Barbara Miller,
34 Elizabeth Martini,
35 Christina Ackerman, formermerly Zeller,
36 Magdalena Barbara Beeler, formerly Neff,
37 Maria Barbara Wern,
38 Catharina Beehler,
39 Barbara Domer,
40 Margaret Newbrand,
41 Johanna Mock,
42 Anna Maria Heyd,
43 Gottliebe Raiser,
44 Margaret Meyer,
45 Catharina Felter,
46 Magdalena Kaesser,
47 Christina Felter,
48 Agnes Ackerman,
49 Elizabeth Waltz,
50 Sarah Läpple,
51 Maria Magdalena Alliss,
52 Dorothea Nöedele,
53 Anna Maria Gaseley, formerly Böhringer, left 1845,
54 Sylvia Kappel, formerly Ackerman,
55 Anna Maria Ruof, formerly Miller,
56 Anna Maria Waltz, formerly Harr,
57 Carolina Scyfaug, formerly Holderrieth,
58 Catharina Fritz,
59 Anna Maria Gaseley, formerly Ackerman,
60 Melinda Hileman, left September 25, 1845,
61 Anna Barbara Sindlinger,
62 Christiana Sindlinger,

63 Catharina Henger,
64 Christiana Dorothea Bimeler, formerly Hoover,
65 Elizabeth Fritz,
66 Jacobina Scyfaug, formerly Hoover,
67 Elizabeth Faucon,
68 Christiana Felter, jr.
69 Anna Maria Link,
70 Dorothea Weid,
71 Anna Maria Bimeler, formerly Felter,
72 Margaret Gaseley, formerly Henger,
73 Luci Miller, formerly Ackerman,
74 Helena Ackerman, left,
75 Rosina Ruof, formerly Miller,
76 Anna Maria Näedele,
77 Rosina Neff.
78 Maria Platz,
79 Christina Walter,
80 Margaret Sheid,
81 Martha Bortch,
82 Barbara Meyer,
83 Catharina Sindlinger,
84 Dorothea Felter,
85 Catharina Fossler,
86 Maria Agnes Bader,
87 Judith Huber,
88 Rosina Catharina Hamerly, formerly Holderrieth,
89 Rosina Huber,
90 Catharina Barb'a Breymaier,
91 Alma Wilmer,
92 Elizabeth Rausenberger,
93 Catharina Nolter, left,
94 Catharina Ehret, left,
95 Maria Barbara Kittel,
96 Rosina Ackerman,
97 Catharina Lässing,
98 Elizabeth Gemny,
99 Sophia Huber,
100 Agnes Hagey,
101 Anna Maria Peterman,
102 Christina Zimmerman,
103 Catharine Breymaier.

Exhibit F.—*Exhibit F.*

"F," Zoar, O., names of Separatists who have died.

	Month.	Date.	Year.
August, Hueber - - -	July	23	1821
Akerman, Gottfried, - - -	November	21	1821
Akerman, Maria Agnes - -	September	30	1821
Akerman, Johan. Georg., senr. -	March	23	1824
Backofer, Frederick - - -	October	30	1822
Bertch, Johannes - - -	February	3	1822
Bley, Johann. - - -	October	14	1821
Boccer, Maria Agnes - -	March	10	1824
Been, Caspar - - -	December	11	1830
Facker, Xaver - - -	November	30	
Feig, Samuel - - -	July	29	1822
Friz, Maria - - - -	March	27	1829
Fruth, Catharina - - -	September	11	1821
Goesely, Johann. - - -	July	26	1827
Goesely, Johan., Georg. senr. -	March	24	1823
Goesely, Christiana - - -	September	24	1822

	Month.	Date.	Year.
Goesely, Jacob Frederick	March	14	1825
Goesely, Ferdinand	August	28	1834
Goesele, Johan. Georg., jr.,	March	18	1836
Genry, Jacob	November	11	1821
Genry, Dorothea,	August	24	1834
Harr, Jacob	December	24	1834
" Louisa	October	12	1836
" Dorothea	August	23	1834
" Anna Maria	"	28	1834
" Dorothea Magdal, jr.	"	24	1827
Haglock, Elizabeth Margareth	November	18	1826
Haid, Jeremiah	October	20	1821
" Anna Maria	August	7	1834
Holderrieth, Rosina	September	8	1828
" Catharina	March	19	1841
Henger, John	May	25	1834
" Margaretha	August	23	1834

Names of Separatists.—Continued.	Month.	Date.	Year.
Henger, Catharina Ehlers	February	13	1843
Huber, Stephen	April	6	1838
" Judith	August	25	1835
Heilman, Christian	December	18	1828
Klingler, Eva	February	2	1822
Kohler, Catharina	"	19	1825
Laplin, Sarah	July	1	1834
Luz, Johann. Georg.	January	16	1829
Luz, Magdalena	September	25	1821
Luz, Anna Maria	October	24	1822
Luz, Catharina	December	11	1823
Meyer, John	September	15	1822
Miller, John	October	26	1832
" Barbara	December	29	1845
Nadele, John Georg.	September	20	1822
" Barbara	February	17	1826
" Dorothea	September	1	1834
Neff, John, senr.	December	16	1829
" John, jr.	"	18	1732
" Catharina	September	2	1827
Ott, Dorothea	October	5	1847
Peterman, David	"	9	1843
Peterman, Barbara	November	17	1824
Raiser, Carl	October	7	1826
Rouf, Catharina	March	12	1825

Rouf Christiana	September	22	1837
Rühler, Catharina	October	23	1827
Schneider, Agnes	October	23	1821
Schneider, Anna Maria	August	24	1834
Schasher, Jacob	February	19	1835
Schwable, *Flifabeth*	July	20	1822
Säil, Philip	February	14	1833
Names of Separatists who have died.	Month.	Date.	Year.
Sindlinger, Michael, sr.	July	26	1822
" Michael, jr.	April	2	1836
" George	December	13	1830
" Johannes	January	2	1828
" Catharina	June	11	1833
" Maria	April	4	1829
" Christiana	August	20	1834
" Barbara, sr.	September		1817
Stahlieker, Anna Maria	February	25	1824
Strebel, Christian	September	20	1822
Velter, Caspar	January	9	1835
" Anna Maria	September	5	1834
" Dorothea	January	24	1845
" Christina	May	19	1834
Velter, Michael	September	10	1834
" Barbara	October	20	1826
Velter, Anna Maria	November	30	1827
" Johannes	November	25	1829
" Christina	October	28	1833
Wagner, Sabuia	February	16	1826
Waltz, Jacob	August	26	1834
" Elizabeth	March	1	1835
" Christian	March	7	1829
Weid, Jabob Frederick	February	8	1824
Wintergerst, Agatha	May	19	1831
Weebel, Catharina	September	7	1828
Wiseman, Agnes	August	27	1834
Zimmerman, Johannes	January	8	1829
" Gottlieben	October	20	1821
Sundry names of Separatists who have died.—Continued.	Month.	Date.	Year.
Plaz, Christopher	August	25	1832
Haid, Anna Maria	"	8	1834
Kaemmerler, Jacob	"	9	1844
Breymaier, Johannes	"	15	1834
Kaessler, Magdalena	"	17	1834

Raiser, Gottlieben - - -	August	21	1834
Ottelie, Heinry - - -	"	23	1834
Fauple, Ida - - -	"	24	1834
Weed, Dorothea - - -	"	24	1834
Friz, Barbara - - - -	"	26	1834
Nolter, George - - -	"	26	1834
Rouf, Rosina - - -	"	29	1834
Miller, Lucy - - -	"	30	1834
Akerman, Barbara - - -	May	26	1838
Farrion, Elizabeth - - -	August	14	1839
Newbrand, Dorothea - -	"	23	
Raushenberger, Elizabeth - -	September	17	1840
Tossler, Catharina - - -	March	11	1842
Auch, Magdalena - - -	November	25	1842
Böhringer, Margaretha - -	August	30	1843
Dapp, Catharina - - -	July	9	1844
Kaemmerle, Jacob, sr. - -	June	28	1845
Scheering, David - - -	December	9	1845
Kithe, Barbara - - -	November	7	1846
Mishele, Wilhelm - - -	January	11	1847
Ackerman, Margareth - -	April	24	
Flad, Johanna - - -	November	14	

N. B.—The above list of names have been copied from my record book. December 31, 1847.

J. M. BIMELER.

And afterwards, to wit, on the sixth day of April, in the year of our Lord one thousand eight hundred and forty-eight, came the said respondents, Godfrey Lentz, John G. Gretzinger, Jacob Silvan, David Silvan, Godfrey Kappel, Barbary Werner, Catharine Werner, Johanna Mock, Elizabeth Martina, Marrianna Wintergerst, Margaretha Maier, Anna Maria Link, Wilhelmina Huber, Agnes Bador, Margaretha Newbrand, Magdalena Ackerman, Barbara Sindlinger, Barbara Reif, Barbara Bühler, and Anna Maria Heid, by their solicitors, and filed in said clerk's office their joint and several answer to the complainants' bill of complaint herein, in the words and figures following, to wit:

Answer of Godfrey Lentz et al.

In the circuit court of the United States, district of Ohio.

JOHN GEORGE GOESELE et al.
vs.
JOSEPH M. BIMELER et al.
} In chancery.

Now come Godfrey Lentz, John G. Gretzinger, Jacob Silvan, David Silvan, Godfrey Kappel, Barbara Werner, Catharine Werner, Johan-

na Mock, Elizabeth Martina, Marrianna Wintergerst, Margaretha Maier, Anna Maria Link, Wilhelmina Huber, Agnes Bader, Margaretha Newbrand, Magdalena Ackerman, Barbara Sendlinger, Barbara Reif, Barbara Bühler, and Anna Maria Heid, and in answer to the bill of complaint exhibited against them and others by the said John George Goesele and others, or to so much thereof as they are advised that it is material for them to make answer, say, that in the year 1817, they, and the said Johannes Goesele, named in said bill, and many others, members of a religious society known by the name of Separatists, left their native country, Germany, and came to the United States of America. Upon their arrival at the city of Philadelphia, at which place they landed, they made inquiry for and desired to purchase land on credit, as many of them were entirely without means, and none of them had means to any considerable amount; Joseph M. Bimeler being one of the most active and enterprising of their number, purchased of one Godfrey Haga, of said city, a tract of land situate in the county of Tuscarawas, and State of Ohio, containing five thousand and five hundred acres, at and for the price of fifteen thousand dollars, payable on time, and for which he gave to said Haga his bonds, and secured the payment thereof by mortgage of said land; said purchase was made in the name of said Bimeler, and the legal title to said land was conveyed to him, but with the understanding and agreement between him and his associates that they who would settle upon said land and contribute to making payment therefor, should have thereof in proportion to the amount which each should contribute; soon after said purchase, these respondents, and the said Johannes Goesele, and many others of the Separatists, being furnished by the Society of Friends, by whom they were supported during their stay in said city, with the sum of eighteen *hundred* dollars each to defray the expenses of travelling from Philadelphia to said Tuscarawas county, removed to and settled upon said land. Sometime after their settlement upon said land, the system of a community of interest was recommended and urged by a large majority of their number; and on the fifteenth day of April, A. D. 1819, articles of association were agreed upon and signed by the members, including the said Johannes Goesele, a copy of which said articles is filed with the answer of Joseph M. Bimeler in this cause, which copy these respondents pray may be taken as part of this answer. Pursuant to said articles of association the affairs and business of the society were managed and conducted, and its property enjoyed until the eighteenth day of March, A. D. 1824, when certain amendatory articles were agreed to and signed by these members, including the said Johannes Goesele, a copy of which said last mentioned articles is filed with the answer of said Joseph M. Bimeler in this cause, which said last mentioned copy these respondents pray may be taken as part of this their answer; the affairs of said society were governed, controlled, and carried on pursuant to, and in accordance with, the articles aforesaid, until the 14th day of May, A. D. 1833; on the sixth day of February, A. D. 1832, the members of said society obtained from the legislature of the State of

Ohio an act of incorporation, a copy of which, and also an act amendatory thereof, is filed with the answer of said Joseph M. Bimeler in this cause, which copy these respondents pray may be taken as part of their answer. On said fourteenth day of May, 1833, the members of said society, pursuant to said act of incorporation, organized under said act, and adopted a constitution and by-laws, and from that time hitherto, said society has been governed, its affairs have been conducted, and its property enjoyed, pursuant to and in accordance with said constitution and by-laws; a copy of which is filed with the answer of the said Joseph M. Bimeler in this cause; which copy these respondents pray may be taken as part of this their answer. The said Johannes Goesele continued a member of said association until the time of his death, which happened on the twenty-sixth day of July, A. D. 1827; whether said complainants are the heirs of said Johannes Goesele these respondents do not know, and ask that of this allegation said complainants may be held to proof; and whether said complainants resided in Germany, or without the State of Ohio, these respondents do not know, and of this they ask that said complainants may be held to proof. Said Johannes Goesele left surviving him, at Zoar, in said Tuscarawas county, a son and heir-at-law, named John Goesele, who was a member of said association, and subscribed said articles of 1824; but who, after the death of his said father, voluntarily left said society, and where he now is these respondents do not know. The said Johannes Goesele, from the time of his first connexion with the Separatists, was without means, and being aged and infirm, his services were not at any time more than adequate to his support; and these respondents aver, that he in no wise contributed to the acquisition of the property of the society, except that he joined with many other members in transferring to the society the pittance which remained unexpended of the eighteen dollars which had been received by each to defray the expenses of travelling from said city of Philadelphia. By reason of economy in the management of the affairs of said society, and of the skilfully directed labor and industry of its members, its property has become increased in extent and in value; and though the legal title to the real estate is in the name of said Joseph M. Bimeler, yet it has been clearly understood between him and the officers and members that he holds such title in trust for the society, and that he has no other interest in such real estate, or in any part thereof, than what pertains to him as a member of the society in common with the other members.

Further answering respondents deny, that the said complainants, or either of them, are entitled to any share or interest in the property of said society, real or personal, either in their pretended character as heirs at law of said Johannes *Gaseley*, or otherwise, howsoever; or that they are entitled to any account or partition of the same.

The respondents are advised to insist, and do insist, upon the following *upon the following* grounds of defence to said bill:

1. That the express surrender of all the individual property as stipulated for in the articles of association, prior to the act of incorporation,

all which were agreed to and signed by the said Johannes Goesele, and the agreement that there should be no reclamation on the withdrawal or death of a member, *are* binding in law; and that upon the death of said Johannes, no interest in said property descended to his heirs.

2. That by reason of the purposes, object, and business of said society, the same is to be taken as a general partnership with the principle of succession engrafted upon it; and its property is, in a court of equity, considered as personalty, as to which the complainants as heirs-at-law are not entitled to an account or partition; but if any right thereto exists, the same can only be asserted by an administrator or personal representative of said Johannes *Gaseley*.

3rd. That in virtue of the act of incorporation the entire property of the society belongs in equity to said corporation, and is considered as personalty, and no account or partition can be had upon the application of the complainants, but, if at all, only by a personal representative. Respondents deny all fraud, and having made full answer, pray to be hence dismissed with their costs, &c.

T. EWING & HENRY STANBERY,
Solicitors for respondents.

THE STATE OF OHIO,
Tuscarawas county, ss.

We, Godfrey Leutz, John G. Gretzinger, Jacob Silvan, David Silvan, Godfrey Kappel, Barbara Werner, Catharine Werner, Johanna Mock, Elizabeth Martina, Marian Wintergerst, Margaretha Maier, Anna Maria Link, Wilhelmina Huber, Agnes Bader, Margaretha Newbrand, Magdalena Ackerman, Barbara Sindlinger, Barbara Reif, Barbara Biehler, and Anna Maria Heid, being severally affirmed, do respectively say, that the several matters and things stated in the foregoing answer, as from the information of others, we believe to be true; and that the several other matters and things therein stated, are true in substance and in fact.

Jacob Silvan,
his
Godfrey x Leutz,
mark.
J. George Gretzinger,
Godfrey Kappel,
David Silvan,
Barbara Reif,
Johanna Mack,
Magdalena Ackerman,
her
Marianna x Wintergerst,
mark.
Margaretha Newbrand,
Maria Barbara Werner,
Anna Maria Heyd,
Caroline Werner,
Wilhelmina Huber,
her
Anna Maria x Link,
mark.
her
Elizabeth x Martini,
mark.
her
Agnes x Bader,
mark.
Magdalena Barbara Buehler,
Barbara Sendlinger,
Margaret Maeyer.

Sworn to and subscribed before me, this twenty-second day of January, A. D. 1848. JAMES G. TINKER,
Justice of the peace.

And afterwards, to wit, on the twenty-sixth day of April, in the year of our Lord one thousand eight hundred and forty-eight, came the said complainants, by their solicitors, and filed in the clerk's office aforesaid their replication to the foregoing answers of the defendants herein filed, in the words and figures following, to wit:

Replication.

JOHN GEORGE GOESELE et al.
vs.
JOSEPH M. BIMELER et al.

In chancery.

And the said John George Goesele, Anna Maria Waldenmaier, with Charles Waldenmaier, her husband, John Adam Mann, Anna Maria Mann, John Jacob Mann, and Maria Barbara Mann, by John George Rentler, guardian, &c., now come and say that the matters and things set forth in their said bill of complaint are true in substance and in matter of fact; and that the matters and things set forth in the answers of Joseph M. Bimeler, Godfrey Lentz, John G. Gretzinger, Jacob Silvan, David Silvan, Godfrey Kappel, Barbara Werner, Catharine Werner, Johanna Mack, Elizabeth Martina, Marianna Wintergerst, Margaretha Maier, Anna Maria Link, Wilhelmina Huber, Agnes Bader, Margaretha Newbrand, Magdalena A. Kennan, Barbara *Sendling*, Barbara Reif, Barbara Buehler, and Anna Maria Heid, contrary thereto, are untrue; and this they are ready to make appear, as by this court shall be directed.

By DAVID QUINN,
Their solicitor.

And afterwards, to wit, on the fifth day of May, in the year last aforesaid, the following subpœna was issued out of said clerk's office, to wit:

Subpœna.

UNITED STATES OF AMERICA,
District of Ohio, ss.

To the marshal of said district, greeting:

We command you to summon John George Jauss, citizen of, and resident in the State of Ohio, if he be found in your bailiwick, to be and appear before the judges of the circuit court of the United States, for the district of Ohio, aforesaid, at Columbus, on the third Monday in the month of July next, to answer a certain bill in chancery, filed in said court, on the 23d day of November, 1846, against him and Jo-

seph M. Bimeler and others, by John George Goesele, Anna Maria Waldenmaier and Charles Waldenmaier, her husband, John Adam Mann, John Jacob Mann, and Maria Barbara Mann, by John George Rentler, their guardian, all citizens of the kingdom of Wertemberg, in Germany; and of this writ make legal service and due return on the first Monday of June next, and have then and there this writ.

Witness the honorable Roger B. Taney, chief justice of the United States, this 5th day of May, 1848, and in the 72d year of the [SEAL.] independence of the United States of America.

Attest: WM. MINER, *Clerk.*

Mem. The defendant is to enter his appearance in this suit in the clerk's office, on or before the day at which the writ is returnable, otherwise the bill may be taken pro confesso.

Attest: WM. MINER, *Clerk.*

And afterwards, to wit, at rules of said court, held in the clerk's office of said court, for the month of June, in the year of our Lord one thousand eight hundred and forty-eight, that being the time to which said writ was made returnable, came the marshal, to whom the same was in form aforesaid directed, and returned the same into said clerk's office with his proceedings endorsed thereon, in the words and figures following, to wit:

1848, May 24. Received this writ, and on the 27th of May, 1848, I served the same on the said John George Jauss by leaving an attested copy thereof at his usual place of residence, in the hands of Maria Wintergerst, the lady with whom he boards.

SAMUEL BAUGHMAN,
Deputy marshal, U. S., district of Ohio.

Order.

And afterwards, to wit, at the July term of said court, in the year last aforesaid, this cause was continued; and afterwards, to wit, on the twenty-second day of November, being at the November term of said court, in the year last aforesaid, on motion of complainants, leave is given them to amend their bill in sixty days; and it is further ordered, that said complainants may take the depositions of such persons as are now, or may hereafter be, made defendants in said cause as they shall deem proper, subject to all exceptions as to relevancy and competency; and this cause is continued.

And afterwards, to wit, on the tenth day of January, in the year of our Lord one thousand eight hundred and forty-nine, came the said complainants, by their solicitors, and filed in said clerk's office their amended bill herein, in the words and figures following, to wit:

Amended bill.

To the honorable the circuit court of the United States, within and for the district of Ohio. In chancery sitting.

Your orators, John George Goesele, son of Johannes Goesele, deceased, Anna Maria Waldenmaier, daughter of the said Johannes Goesele, deceased, with Charles Waldenmaier, her husband, John Adam Mann, Anna Maria Mann, John Jacob Mann, and Marie Barbara Mann, minor children of Maria Barbara Mann, deceased, daughter of Johannes Goesele, deceased, by their guardian, John George Rentler, all citizens of the kingdom of Wertemberg, in Germany, by way of amendment to their original bill filed against Joseph M. Bimeler and others, leave for that purpose having been first had and obtained of the court, respectfully represent, that Conrad Breymaier and Margaret Breymaier, his wife, Matthew Hileman and Matilda Hileman, his wife, John Goesele and Anna Maria Goesele, his wife, and John George Boehringer, all citizens of, and residents in, the State of Ohio, have, or pretend to have, some claim to the property set forth in the said original bill, or some part thereof; and your orators therefore pray that they may be made defendants to this bill. Your orators further aver, that it is represented to them that there is a certain corporation, or pretended corporation, entitled or called the Separatist society, at Zoar, which pretends to have some claim to the property in said original bill described, or some part thereof; and your orators ask that such corporation, or a body claiming to be a corporation, if such there be, may be made defendant to this bill; and your orators ask subpœna, &c. Your petitioners further show, that as they are informed and believe, there are numerous other persons claiming some interest in said property, mentioned in said original bill, or some part thereof, but your orators are ignorant of their names or places of residence, but are advised that they are not residents of the State of Ohio, but your orators ask that in case said parties, or any of them, shall come within the jurisdiction of this court, they may be made parties thereto.

SWAN & ANDREWS,
Solicitors for complainants.

Subpœna.

And thereupon the following subpœna issued out of said clerk's office, to wit:

UNITED STATES OF AMERICA,
District of Ohio, ss.

To the marshal of said district, greeting:

We command you to summon Conrad Breymaier and Margaret Breymaier, his wife, Matthias Hileman and Malinda Hileman, his wife, John Goesele and Anna Maria Goesele, his wife, John George Boehringer, and the Separatist society, at Zoar, citizens of, and residents in

the State of Ohio, if they be found in your bailiwick, to be and appear before the judges of the circuit court of the United States, for the district of Ohio, aforesaid, at Columbus, on the third Monday in the month of July next, to answer a certain amended bill in chancery filed against them by John George Goesele, Anna Maria Waldenmaier and Charles Waldenmaier, her husband, John Adam Mann, John Jacob Mann, and Maria Barbara Mann, by John George Rentler, their guardian, all citizens of the kingdom of Wertemberg, in Germany, and of this writ make legal service and due return on the first Monday of February next; and have then and there this writ.

Witness the honorable Roger B. Taney, chief justice of the United States, this 10th day of January, 1849, and in the 73d year
[SEAL.] of the independence of the United States of America.

Attest: WM. MINER, *Clerk.*

And afterwards, to wit, at rules of said court, held in the clerk's office thereof, for the month of February, in the year last aforesaid, came the marshal, to whom said writ was in form aforesaid directed, and returned the same into said clerk's office with the following endorsements thereon, in the words and figures, viz:

We appear for the Separatist society, and waive process for that corporation.

January 15, 1849.

EWING & H. STANBERY,
For the corporation.

I appear for Conrad Breymaier and Margaret Breymaier, his wife, Matthias Hileman and Malinda Hileman, his wife, John Goesele and Anna Maria, his wife, and John George Bohringer, and waive process for them.

January 22d, 1849.

DAVID QUINN, *Attorney.*

And afterwards, to wit, on the thirtieth day of April, in the year of our Lord one thousand eight hundred and forty-nine, came the said John George Schandy and filed in the clerk's office aforesaid his answer to the bill of complaint herein, in the words and figures following, to wit:

Answer of Jno. Geo. Schandy.

The answer of John George Schandy, defendant, to the bill of complaint of John George Goesele and others, exhibited against him and others in the United States circuit court, for the district of Ohio.

And the said John George Schandy now comes, and for answer to the said bill says, that true it is that in the year 1817 the said Johannes Goesele, now deceased, of whom the said complainants are the heirs at law, as this defendant is advised and believes, emigrated from the kingdom of Wertemberg, in Germany, to the United States of America,

in company with this respondent and numerous other persons, all of whom, because of our separation from the established church in Wertemberg, were called Separatists. At Philadelphia, in the same year, 1817, we purchased of one Godfrey Haga a tract of 5,500 acres of land, situate in Tuscarawas county, Ohio, to which we then emigrated, took possession, improved the property, and with the product of our joint labor, together with some money and other means of which we were then possessed, paid the purchase money, to wit, about $15,000. This purchase was made with the agreement among ourselves, that each member was to have as much of the lands as he could pay for by the time the purchase money came due. Accordingly we had the land divided. The town of Zoar was laid off into lots, and the farming land divided into farms, and each member took as much thereof as was supposed he would be able to pay for. Each member then proceeded to cultivate and improve his own particular tract; but after proceeding in this way for about a year or two, fears were entertained lest we might not be able to pay for the land according to the contract. Wherefore, for the purpose of more efficient action, and for the purpose of making money faster, it was proposed to unite all our labor and effects into one common fund. When this was first proposed it met with much opposition, principally from the more wealthy. Joseph M. Bimeler also opposed it, but soon after, from some unknown cause, became its warmest friend, and in addition to its real object, to wit, that of making money, also urged it as a christian measure, and so preached and sung in meeting. After the opposition had partly subsided, said Bimeler drew up articles of association and obtained the signatures of many of the members thereto, but after having done so refused to sign them himself. We, however, united under Bimeler's directions, and with our joint funds paid for the land. Each member contributed what money or effects he had, together with his labor, and said Goesele contributed among the rest. His services were of great value, much above his support; besides he was considered one of the wealthiest men of our society. He brought money from Germany, built a house at Zoar, and contributed consid erable personal property. Said Bimeler was our preacher or spiritual adviser, to which he added the character of temporal or business agent, and in this two-fold character obtained great influence and control over the society, and finally, by his influence, power, and cunning, obtained the legal ownership of all our property. In taking the title to our real estate without our knowledge or advice, he took and received it all to himself, to hold to him and his heirs forever, and has so held it ever since. The 5,500 acres purchased of Haga, as aforesaid, was conveyed to the said Bimeler, by a deed, a copy of which is hereto attached, marked A, and made part of this answer. About 4,500 acres of land lying in the same vicinity *was* afterwards purchased by us, and the title also taken by said Bimeler, in his own name, and so is still holden. When we first settled in Tuscarawas county, most of us were poor, and our object was to procure homes; but now the association has grown

rich, and in addition to our ten thousand acres of land, we have accumulated a large amount of money, goods, and effects, until the whole property belonging to the society is variously estimated at from one-half to a million of dollars, all of which is held in the name of said Bimeler, and all the business of the society done in his name. It is also true as charged in said bill that Johannes Goesele, this respondent, and the other defendants then situated at Zoar, formed an association called "The Separatists Society at Zoar;" but this respondent further says, that said society was intended to be a society of equal rights, privileges, and enjoyments among its members. But the said Bimeler, having acquired the confidence of the members, and with the title to all our property, made the society the very opposite of what it was intended to be, and instead of a society of equal rights and enjoyments, it is and ever has been, since the year 1819, the association of a master and his slaves. Bimeler lives in sumptuous style, in a splendid mansion, worth about twenty thousand dollars ($20,000,) with extensive gardens and pleasure walks attached, decorated with flowers, shrubbery, and fountains, while the other members have to live in small poor habitations, and to partake of very ordinary fare, while the luxuries of the land are received by Bimeler. If any complain or are dissatisfied, he furnishes them or drives them off. None but he are allowed to have or retain money; but he, under the name of treasurer, arbitrator, standing committee, general agent, or legal owner, as may best suit his convenience, manages to get all and to control the rest of the society, more as his slaves than as his associates; all of which actings and doings are contrary to and in violation of the agreement under which we associated. Articles of association were at several times gotten up by Bimeler and signed by some of the members; but whether these articles ever became binding or of any legal effect, this respondent is unable to say, but thinks they did not, inasmuch as they were intended to unite all the interests of the members of "the Separatist Society," who had rights to the property at Zoar, which signature and approbation they never received, some few of the members having at all times refused to sign. Said articles, however, were seized upon by Bimeler, and have ever since been kept in his custody; and by virtue of power which he pretends is therein given him, has greatly tyrannized over the society. Said articles make a show of religion and equality, but are gotten up in great confusion of terms, and were intended, (as this respondent now believes,) by Bimeler to deceive the other members and to defraud them out of their property. But said articles, if yet in existence, will be found to reserve the property in the old members, or those who paid for and improved it.

But this respondent further says, that said society first organized in 1817, by verbal agreement, and has ever since so continued, although some of the provisions of said articles have been from time to time adopted for our government; but said articles will be found to contain provisions for "non-subscribing members," which meant those of the "Separatist Society at Zoar," who did not subscribe the said articles.

But such provision was a fraud in Bimeler to impose upon the members and to secure himself in power. And inasmuch as said society existed independent of said articles, and as all the members did not sign as contemplated, this respondent says that said articles never were executed; besides he is informed that they are otherwise illegal, inoperative, and of non-effect.

This respondent further says, that when our situation became intolerable, and we reduced to that condition by which the people of the country designated us, namely, "Bimeler's slaves," many of the best members complained, by which they incurred the displeasure of Bimeler, who, by means of his power and legal ownership, and with the assistance of the more servile of his train, either expelled from membership or compelled the discontented members to leave the society and its lands and effects, while he and his favorites have seized upon the whole property. By the arbitrary power thus exercised by him, many members have been driven off and stripped of all their property; among whom are numerous old and feeble men and women, who have exhausted the vigor of their days in hard labor for the partnership or society. Such has been the fate of this respondent, after working for nearly 30 years for the society, and when he is 73 years of age he was stripped of all his property, (even his working tools,) and driven out upon the charities of the world, and compelled to find shelter in the Tuscarawas poor-house, where he now remains a county charge.

This respondent further says, that said Bimeler is an artful and cunning man, and has used various means to increase his power; being our preacher he acquired great influence, and more especially over the female members, all of whom are allowed a voice in voting; many of them are old and unmarried. This condition in their lives has been produced by the society originally discouraging marriage. They are most *ridgedly* bound in his interest. This influence, together with his ownership of the property, makes him irresistible. He drives off when he pleases, and gives them nothing to go with, and with the money of the society employs counsel to beat them off.

This respondent further says, that a union of property is not a principle or tenet of the Separatist religion. And he also says that there are numerous members of said society now residing at Zoar, who anxiously desire its dissolution and partition of the property, but are afraid to declare themselves for fear of being expelled and deprived of their property and living.

Respondent further says, that said society when first organized at Zoar, consisted of about two hundred and fifty persons; but that it has been reduced by death, withdrawals, and expulsion, until it does not now contain over eighty members, many of whom are old and fast sinking into the tomb. When they are gone, and the young members, seeing the rights of which they are deprived, leave the society, which is its practicable operation, to whom is the property to go, if the complainants to the aforesaid bill are not entitled to recover? If it is to the longest liver, or to Bimeler and his heirs, who hold the

legal title, then the intention of this respondent, and, as he believes, that of all the other members, (except, perhaps, Bimeler,) will have been entirely defeated.

This respondent further says, that said society is now extensively engaged in farming, mining, merchandising, tavern-keeping, &c., and is employing numerous laborers and mechanics who are not members of the society, and all business is done in the name of Joseph M. Bimeler. He also says, that said society is composed of a first and second class; the second class being the old members, or those who own the property. The first class are under a contract with the society to labor for their support, but own no part of the property. The said Johannes Goesele, this respondent, and the other defendants to said bill, are of the second class, and own the property; and with the exception of those who have died in possession, been expelled, driven off, or compelled to leave because of mal-treatment, have at all times been in possession. Said Goesele died at Zoar while seized and possessed of his equal proportion of said property.

To the several interrogatories propounded in said bill this respondent says, that the 1st, 2d, 3d, 4th, 5th, and 6th, he answers in the affirmative.

Of the 7th he says that some few persons have left the society and received money or goods in full satisfaction for their interests in the property, but the greater number have been compelled to leave entirely destitute.

Thus having answered all of which he is advised it is material for him to answer, prays that his rights may be protected, and that he may be dismissed with costs. JOHN GEORGE SCHANDY.

THE STATE OF OHIO, *Tuscarawas county, ss.*

I, John George Schandy, being duly affirmed, depose and say, that all the several matters and things which are stated in the foregoing answer as from information of others I believe to be true; and that all the several other matters and things therein set forth are true in substance and in fact. JOHN GEORGE SCHANDY.

Sworn to and subscribed before me this 17th day of April, 1849.
A. WILHELMI, *J. P.*

Exhibit A.

The following is the exhibit A, referred to in the foregoing answer of John George Schandy, and filed therewith, and made a part thereof, to wit:

A.

This indenture, made this seventh day of May, in the year of our Lord one thousand eight hundred and eighteen, between Godfrey Haga, of the city of Philadelphia, merchant, of the one part, and J. Michael Baumler, of the State of Ohio, yeoman, of the other part,

witnesseth: That the said Godfrey Haga, for and in consideration of the sum of fifteen thousand dollars, lawful money of the United States of America, unto him at or before the sealing and delivery hereof, by the said J. Michael Baumler, well and truly paid, the receipt whereof is hereby acknowledged, hath granted, bargained, and sold, aliened, enfeoffed, released, and confirmed, and by these presents doth grant, bargain, and sell, alien, enfeoff, release, and confirm, unto the said J. Michael Baumler, and to his heirs and assigns, all those three certain tracts or pieces of land situate in the State of Ohio, one of them estimated to contain four thousand acres, being the fourth quarter of the tenth township in the second range of the tract appropriated for satisfying warrants for military services; one other of them containing five hundred acres, more or less, situate at the northwest corner of the third quarter of the tenth township in the first range of the tract appropriated for satisfying warrants for military services, in breadth north and south two hundred perches, and in length east and west four hundred perches; bounded southward by land granted to John Colver, westward by the above described tract, and eastward by land granted to Peter Wolf. And the other of them containing one thousand acres, be the same more or less, and being the easternmost part of the said third quarter of the tenth township in the first range of the said tract appropriated for satisfying warrants for military services; in breadth east and west two hundred perches, and in length north and south eight hundred perches, bounded westward by the said land granted to Peter Wolf. The first above described tract is the same which Thomas Jefferson, then President of the United States of America, by letters patent bearing date the twenty-fifth day of January, in the year of our Lord one thousand eight hundred and three, (recorded in Washington county, vol. 8, page 274,) granted unto Jonathan Dayton in fee. And the said Jonathan Dayton and Susan, his wife, by indenture bearing date the fifth day of February, in the year of our Lord one thousand eight hundred and four, (recorded in Muskingum county, in the State of Ohio, in book A, pages 114 and 115,) granted and conveyed the same unto the said Godfrey Haga in fee; and the two last above described tracts are parts and parcels of the said third quarter of the tenth township, in the first range aforesaid, of the tract appropriated for satisfying warrants for military services, which John Adams, then President of the United States of America, by letters patent bearing date the twenty-eighth day of March, in the year of our Lord one thousand eight hundred, (recorded in Washington county, vol. 7, page 26,) granted unto the said Godfrey Haga in fee; together with the rights, members, and appurtenances whatsoever, thereunto belonging, and the reversions and remainders, rents, issues, and profits thereof, and all the estate, right, title, interest, property, claim, and demand whatsoever of him, the said Godfrey Haga, in law, equity, or otherwise howsoever, of, in, and to the same and every part thereof; to have and to hold the said three several described tracts or pieces of land, containing in the whole five thousand five hundred

acres, hereditaments and premises hereby granted or mentioned and intended so to be, with the appurtenances, unto the said J. Michael Baumler, his heirs and assigns, to and for the only proper use and behoof of the said J. Michael Baumler, his heirs and assigns forever. And the said Godfrey Haga, for himself, his heirs, executors, and administrators, doth covenant, promise, and agree, to and with the said J. Michael Baumler, his heirs and assigns, that the above described and bargained premises, containing five thousand five hundred acres, more or less, against the lawful claim and demand of all persons whomsoever, he, the said Godfrey Haga, shall and will forever hereafter warrant and defend unto the said J. Michael Baumler, his heirs and assigns forever.

In witness whereof the said parties have interchangeably set their hands and seals hereunto. Dated the day and year first above written.

GODFREY HAGA. [SEAL.]

Sealed and delivered in the presence of us—
JOHN HECKEWELDER,
J. WAMPOLE.

EASTERN DISTRICT OF PENNSYLVANIA, *ss.*

Be it remembered, that on the seventh day of May, in the year of our Lord one thousand eight hundred and eighteen, before me, Richard Peters, judge, Pennsylvania district, in the United States, personally came and appeared Godfred Haga, the grantor above named, and acknowledged the above written indenture to be his act and deed, and desired the same might be recorded as such according to law.

Witness my hand and seal the day and year above said.

RICHARD PETERS. [L. S.]

Received July 9th, 1818, and recorded October 10th, 1818.
Attest: GEORGE W. CANFIELD,
Recorder.

THE STATE OF OHIO, *Tuscarawas connty, ss.*

I, Joel Warner, recorder of deeds within and for said county of Tuscarawas, do hereby certify, that the foregoing is a true copy from the records in this office.

In testimony whereof I hereunto subscribe my name and affix the [SEAL.] seal of my said office, at New Philadelphia, this 25th day of October, A. D. 1848. JOEL WARNER, *Recorder.*

And thereupon, to wit, on the said thirtieth day of April, in the year of Lord one thousand eight hundred and forty-nine, came the said respondents, John George Jans, John George Boehringer, Christian Weishaar, John Goesele, of Tuscarawas county, Matthias Hilman, Conrad Brymire, Malinda Hilman, and Anna Maria Goesele, and filed in the clerk's office aforesaid their joint and several answer to the said bill of complaint herein; which said answer is in the words and figures following, to wit:

Answer of John G. Jans et als.

"The joint and several answer of John George Jans, John George Boehringer, Christian Weishaar, John Goesele, of Tuscarawas county, Mathias Hilman, Conrad Brymire, Malinda Hilman, and Anna Maria Goesele, to the bill of John George Goesele et al., exhibited against them, Joseph M. Bimeler, and others; and the said John George Jans, John George Boehringer, Christrian Weishaar, John Goesele, Mathias Hilman, Conrad Brymire, Margaret Brymire, Malinda Hilman, and Anna Maria Goesele, now come, and for answer to the said billof the said John George Goesele et al. say, that true it is that one Johnnes Goesele, of whom the said complainants are heirs-at-law, as they are advised and believe, emigrated with them from Germany to the United States of America in the year 1817, purchased land in Tuscarawas county, Ohio, settled upon it, and formed a society which we called 'the Separatist society at Zoar,' for the particulars of which reference is here made to the answer of John George Schandy, filed in this cause. These respondents were formerly, and as they believe still are, members of said society, and contributed greatly to the accumulation of its property, but having incurred the displeasure of Joseph M. Bimeler, the tyrant of the society, the respondents, Weishaar, Boehringer, Heilman, and Goesele, were, between the years 1842 and 1846, compelled to leave said society, and deprived of their property and their living, while said Bimeler and his associates, or more properly his slaves, retain its possession and enjoyment. The respondents, Anna Maria Goesele and Malinda Heilman, were not forcibly driven off, but were offered a support by the trustees of the society, out of the common fund, if they would quit their husbands and remain with the society; but preferring the society of their husbands, they went with them, and for so doing have been, as they are advised, formally expelled by said Bimeler from membership in said society, and denied all right in its property. Respondents, Jans, Conrad Brymire, and Margaret Brymire, still remain in the society at Zoar, and refuse to give up their habitations, although they are badly treated, and various means used to compel them to leave. These respondents further say, that in or about the year 1833, certain articles were drawn up by Bimeler, or under his direction, and signatures solicited from the members; which articles were said to be in pursuance of an act of incorporation passed by the Ohio legislature; said articles the respondent, Jans, never signed or approved of, but has at all times resisted and opposed them. The respondents, Malinda Hilman and Margaret Brymire, signed, but were at the time, and have been ever since, married women. These respondents were all full members of the second class of said society, and entitled to equal proportions of its property with the other members, having each contributed largely in its accumulation and in the payment of the purchase money. The respondent, Boehringer, is also entitled to another share on behalf of his wife Margaret, who died *died* about the year 1843, in possession and seized of an equal moiety of the property.

George Goesele and Christiana Goesele, father and mother of the respondent, John Goesele, and John George Goesele, Frederick Goesele, brothers of respondent, John Goesele, were all seized of equal moieties of the said property, and died in possession, leaving this respondent, John Goesele, their heir-at-law, in consequence of which he is entitled to a large amount of said property. The respondent, Anna Maria Goesele, is the daughter and heir-at law of Margaret Boehringer, who owned a portion of the property claimed by said society, and who died at Zoar in the year 1843, and who was a feme covert at all times during her connexion with said society.

Of the several interrogatories propounded in said bill, these respondents say, and answer the 1st, 2d, 3d, 4th, 5th, and 6th in the affirmative, but to the 7th say, that some few have left and received goods or money in satisfaction of their claims on the said property; but many more have been compelled by expulsion or ill treatment to leave entirely destitute; they further say, that they have adhered to the Separatist religion, while the said Bimeler has trampled it under foot; thus having answered all of which they are advised it is material for them to answer, pray that their rights may protected; that partition may be made of the said property, and that for aught else they may be dismissed with costs.

JOHN GEORGE JANS,
CONRAD BREYMAIER,
MARGARET BREYMAIER,
JOHN GASELY,
J. GEORGE BOEHRINGER,
MATTHIAS HEILMAN,
ANNA MARIA GOESELE,
MALINDA HEILMAN,
CHRISTIAN WEISHAAR.

THE STATE OF OHIO, *Tuscarawas county, ss.*

We, the undersigned, being duly affirmed, depose and say, that all the several matters and things which are stated in the foregoing answer, as from the information of others, we believe to be true; and that all the several other matters and things therein set forth are true in substance and in fact.

MATTHIAS HEILMAN,
CHRISTIAN WEISHAAR,
JOHN GASELY,
ANNA MARIA GASELY,
J. GEORGE BOEHRINGER.

Sworn to and subscribed before me, this 21st day of April.
A. WILHELMI, *Justice of the peace.*

And afterwards, to wit, at the time appointed by law for holding the July term of said court, in the year of our Lord one thousand eight hundred and forty-nine, the marshal of said district, in conformity with with the requirements of an order to that effect from the honorable

John McLean, one of the judges of the said circuit court, adjourned said court to the fifteenth day of October then next ensuing; whereupon, by reason of such adjournment, this cause was continued.

Order.

And afterwards, to wit, on the fifteenth day of October, being at the October term of said court, in the year last aforesaid, "came the said Joseph M. Bimeler, and the society of Separatists of Zoar, by Mr. Stanbery, their solicitor, and moved the court here that a certain paper purporting to be the answer of the Separatist society at Zoar, filed in this case on the 4th September, 1849, be stricken or taken from the files, on the ground that the same has been surreptitiously filed, and without the consent or knowledge of said corporation, and that the said pretended trustees therein named are not now, and were not at the time of filing said answer, trustees of the said society, either in law or fact; and said Bimeler, and said corporation, will ask that the costs herein be taxed against said pretended trustees."

And afterwards, to wit, on the thirtieth day of October, in the year and at the term of said circuit court last above mentioned, the following order was made by said court in this cause, to wit:

Order.

Motion to strike answer from the files. And now comes the said Joseph M. Bimeler, by Mr. Stanberry his solicitor, and the said John George Boehringer, Conrad Breymier, and Matthew Heilman, by Mr. Quinn, their solicitor, and after hearing the affidavits and exhibits, and the arguments thereon, the court are of opinion that the said paper purporting to be the answer of the Separatist's society at Zoar, by the said Boehringer, Bremier, and Heilman, as trustees, and filed September 4, 1849, has been improperly and surreptitiously put on file in this case; and the court do order that the same be stricken from the files at the costs of said John George Boehringer, Conrad Breymier, and Matthew Heilman, which costs shall be paid in ten days from the end of this term, or upon default thereof that execution go therefor as in cases at law; and the clerk is ordered to endorse on said answer "stricken from the files by order of the court," and that he retain the same, and the affidavits filed herein.

Order.

And thereupon, on motion of said Joseph M. Bimeler, it is ordered that Mr. Quinn, who has signed the bill as the solicitor for the complainants, do show, by the first day of the next term, by what authority he appears for said complainants.

Order.

And afterwards, to wit, on the thirty-first day of October, in the year and at the term of said court last mentioned, "on motion of the

complainants by their solicitor, the Separatist society at Zoar, who are made defendants by the amended bill in this case, are ruled to file their answer to the same within thirty days.

And thereupon this cause was continued. And afterwards, to wit, on the thirtieth day November, being at the November term of said court, in the year last aforesaid, the following order was also made by said court in this cause, to wit:

Order.

Motion for David Quinn, esqr., to show cause, &c. David Quinn, counsel for complainant, having shown his authority to act as counsel in this cause, and the court being satisfied with the same, it is ordered that said motion be, and the same is hereby, discharged.

And thereupon this cause was continued; and afterwards, to wit, at the time appointed by law for holding the July term of said court, in the year of our Lord one thousand eight hundred and fifty, the marshal of said district, in conformity with the requirements of an order to that effect from the honorable John Mc Lean, one of the judges of the said circuit court, adjourned said court to the thirtieth day of September, then next ensuing; whereupon, by reason of such adjournment, this cause was continued. And afterwards, to wit, at the September term of said court, in the year last aforesaid, this cause was continued; and afterwards, to wit, on the twenty-third day of October, being at the October term of said court, in the year last aforesaid, came the said Separatist society at Zoar, by their solicitor, and filed in said court their answer to the said amended bill of complaint herein, in the words and figures following, to wit:

Answer of Sep. society.

The answer of the Separatist society at Zoar, to the original and amended bills exhibited against said society, and others, by John George Goesele and others, in the circuit court of the United States, for the 7th circuit and district of Ohio; the said defendant, saving all advantage of exceptions to said bills, for answer thereunto says, that this defendant was duly created a corportion by the said name of the Separatist society at Zoar, by an act of the general assembly of the State of Ohio, passed on the day of A. D. a true copy of which act is set out in the exhibits made by and attached to the answer of their co-defendant, Joseph M. Bimeler, filed in this case, and to which they refer, and pray the said exhibit to be taken as part of this answer. And the defendant says, that the said act of incorporation was duly accepted by the persons named therein, and their associates, and that said corporation was duly organized, and yet continues in full life; and this defendant refers to and adopts as part of this answer the exhibits attached to the answer of said Bimeler showing the adoption of said act of incorporation, and the articles of constitution framed thereunder. This defendant has no knowledge of the said complainants, or whether they are the heirs-at-law of said Johannes Goesele, or aliens; but requires proof of all allegations touching the same. The defendant denies that said

complainants have any right, legal or equitable, to any of the property or assets of said society, or to any account of partition thereof. This defendant adopts the answer of said Joseph M. Bimeler in all respects, and prays that the same may be taken as the answer of this defendant, as fully as if the same were herein at large set forth.

T. EWING and
HENRY STANBERY,
Solicitor for the Separatist society at Zoar.

And thereupon, came the complainants, by their solicitor, and filed in court here their replication to the foregoing answer of the Separatist society at Zoar, which replication is in the words and figures following, to wit:

Replication.

JOHN GEORGE GOESELE and others
vs.
Joseph M. Bimeler et al. } In chancery.

And the said John George Goesele, Anna Maria Waldenmaier, with Chas. Waldenmaier, her husband, John Adam Mann, Anna Maria Mann, John Jacob Mann, and Maria Barbara Mann, by John George Rentler, guardians, &c., now comes and says, that the matters and things set forth in the said bill of complaint are true in substance and in matter of fact, and that the matters and things set forth in the paper purporting to be an answer of the Separatist society at Zoar, contrary thereto, are untrue; and this they are ready to make appear, as by this court shall be directed.

By DAVID QUINN, *sol'r.*

Complts. depositions.

On the hearing of this cause, the complainants, by their solicitors, produced and filed in court here the depositions of sundry witnesses, taken to be read herein as evidence on behalf of said complainants; which said depositions are in the words and figures following, to wit:

United States circuit court, for the district of Ohio.

JOHN GEORGE GOESELE et als.
vs.
Joseph M. Bimeler et als. } In chancery.

Mr. HENRY STANBERY.

DEAR SIR: I will take depositions in the above case at my office in this city, on Saturday, the sixth day of May next, between the hours of 6 a. m. and 7 p. m. of said day, and will continue the same from day to day if necessary, till all are taken. I now know of but one witness whose deposition I expect to take. By him I expect to prove the transcript of the record from Germany, which establishes the heirship, and I think something more, bearing upon the merits.

DAVID QUINN,
Solicitor for complainants.

Cincinnati, Ohio, April 24th, 1848.

Depositions of witnesses taken in a cause pending in the circuit court of the United States, for the seventh circuit and district of Ohio, on the chancery side of said court, wherein John George Goesele and others are complainants, and Joseph M. Bimeler and others are respondents, in pursuance of the notice hereto attached.

Deposition of Geo. Walker.

George Walker, of full age, being produced and sworn, doth depose and say, in answer to interrogatories.

1. Of what country are you a native?

Answer. I am a native of the kingdom of Wertemberg.

2. How long did you reside in that kingdom?

Answer. Until I was twenty-seven years of age.

3. What was your business in Wertemberg?

Answer. I studied theology, and was for a year and a half practising as an assistant clergyman.

4. Are you acquainted with the laws of Wertemberg upon the subject of perpetuating the genealogy of families? (Objected to on the part of the defendant, on the ground that it is incompetent to prove the laws of a country by parol.

Answer. I am, not only because I heard lectures on the subject, but because I kept the books myself.

5. Please examine the scheme hereto attached, marked A, and say whether or not it is evidence of genealogy and heirship according to the laws of Wertemberg. (The same objection is advanced to this question as to the last.)

Answer. The scheme marked A is made out according to the laws of Wertemberg, and signed and certified and sealed by the proper authorities; with the signature of the director of the bureau of foreign affairs I am acquainted; I also know the seals attached, and know them to be the proper seals.

6. Please state whether or not the heirs of Johannes Goesele are citizens of Wertemberg (if you know) and where they reside.

Answer. The heirs of Johannes Goesele are citizens of Wertemberg; they reside at Boll and Hattenhoven.

7. Look at the paper hereto attached, marked B, and say whether or not it is a correct translation of the paper marked A.

Answer. It is; there is what I consider an irregularity in the expression "after ministerial investigation," which I should translate, "after reports made by the ministers, and an official investigation of the books."

8. State whether or not the aforesaid scheme shows who are the heirs-at-law of Johannes Goesele. (Objected to, as the scheme speaks for itself.)

Answer. It does so show; they are the persons shown in the descending scale.

9. State whether or not you are acquainted with the association of

Separatists at Zoar in this State, and how long since you first became acquainted with them.

Answer. I was acquainted with some members of the association of Separatists in Germany; I was living a few miles from Zoar at Sandyville; I went there first in September or October, 1834; I resided in that county (Tuscarawas) for a year and a half; I was acquainted with Michael and Jacob Bronne, Jacob Kaemmerle, and his son-in-law Roth, Jacob Leutze; except the two last, they were born in the same town with me; I had known these persons in Germany; I met several members of the society in the house of Jacob Kaemmerle.

10. State whether or not you were acquainted with woman, called "Babele," and what relation she bore to the Separatists.

Answer. I saw her in Germany when I was a little boy; she was a leader in that society at that time.

11. State whether or not you have any acquaintance with Joseph M. Bimeler, and what relation he bears to the Separatists at Zoar.

Answer. I knew him, but never had any conversation with him. He is not only a member of the Separatist society, but their tyrant. They stand more in fear of him than a Russian serf does of his master. He has forbidden his people even to speak to me. I was invited to come out to Kaemmerle's house by the members of the society, and had to go from 12 to 1 o'clock at night, because they had been forbidden to talk with me. Leutze went out to Sandyville, and was rebuked by Bimeler for going; he said he was not a slave, when Bimeler discharged him from the society without paying him any thing. I wrote several articles in German, which were translated into English, and published in a Philadelphia newspaper. I also wrote several others, which were published in a paper in the German language, in New York, warning the Germans not to go to Zoar, and telling what I knew of that place; of these I sent Bimeler copies, but never heard of his contradicting any of the statements. Kaemmerle warned me not to do so again, because he said Bimeler was not a man like other men; he had communications with supernatural beings. (All such parts of this answer as are founded on the statements of third persons, or refer to papers not produced, objected to by defendants' counsel.)

12. What do you know, (if any thing,) of Bimeler's pretending to hold communion with the spirit of the woman called "Babele?"

Answer. When I was in Germany, at the castle of Rothenacker, I heard that Bimeler persuaded the Separatists to go to America by order of the spirit of Babele. Bimeler had been secreted a long time in this castle. I was also told by a person named Mustochelknaus, who had been a member of the Separatist society, that Bimeler persuaded the members that the spirit of Babele appeared to him from time to time, though invisibly to others, and gave him directions how he should lead and regulate the society. (This answer is objected to by defendant, because of its irrelevancy to the issue; and also because it is the statement of third persons.)

13. What conversation, (if any,) have you heard among the mem-

bers of said society about Bimeler's intercourse or communion with the spirit of Babele, and what were the belief of the members about him having such intercourse?

Answer. Not that I remember correctly enough to make a statement.

14. What was the general understanding among the people of the county about the belief of the members in Bimeler's pretended intercourse with the spirit of Babele? (Objected to by defendant.)

Answer. The opinions of the people of the county are that Bimeler stated that he had intercourse with higher spirits, and with that of Babele. This opinion I never heard from any member of the society residing in Zoar, but I have heard from those who had been members, residing in the vicinity, that Bimeler pretended to have intercourse with higher spirits, and among others with that of Babele; and that the members believed that he was directed by the spirit of Babele to lead and direct the association of Separatists. The understanding of the people of the county was that Bimeler so stated and pretended.

15. Who controls and directs the society at Zoar, and what relation does Bimeler bear practically to the other members?

Answer. Bimeler directs the directors. He rides in a splendid carriage and horses, and the members live some twenty or more in a house. Many of the members seem afraid to speak to him; when he passes they pay him the homage of an European king. He has a great many law suits; he sends the members to court as witnesses, and rather than to pay three cents toll at a bridge, he makes them go round by way of Sandyville, three miles out of the way. I was also told by some of the members that they are not to write to Germany without showing him the letters. They are not allowed to read a newspaper, except Bimeler and some of his favorites.

16. What facilities, if any, have the members of getting general information?

Answer. They depend on Bimeler, exclusively, for general information, which he details in their meetings.

17. Are they allowed to hold any intercourse with persons who would advise them of the manner they are imposed upon by Bimeler?

Answer. They are not generally allowed to go over the line of their own property without the permission of Bimeler, and seldom alone. Two go together, one to watch the other.

18. Why did Bimeler prohibit his members from talking with you?

Answer. Because I showed them the nonsense and the unworthy situation in which they were placed.

19. Are the members well informed, or are they kept in ignorance, and at hard work?

Answer. They are not well informed; they are kept in ignorance; they are kept at hard work; they have been used to hard work, however, in Germany.

20. State what you know, (if any thing,) of their rules prohibiting marriage.

Answer. I know that in Germany they professed it to be against their religious belief to become married. Once in America I heard that

Judge Lauffer went to Bimeler's house, and found him and his present wife in bed together. He pretended to be married, but as he was not actually, he was fined. When it was told to the members of the society, they asked permission to be married; those who had been married were then occasionally allowed to come together. They generally live in separate boarding houses. This occurred, I am told, about 1830. Judge Lauffer is now dead. This was before I came to America; that is, the circumstances before detailed. (This answer objected to as hearsay testimony.)

Cross examination by defendants' counsel.

1. Question. State your age?

Answer. I am forty-one years old.

2. Question by same. When did you leave Germany; when did you arrive in America; and where have you resided since then?

Answer. I left Germany in April, 1834. I arrived in America in June, 1834. I have resided about eight weeks in Pittsburgh, then at Sandyville. Since new year's day, 1837, I reside in this city.

3. Question by same. Of what church or denomination of christians were you an assistant minister? Are you still a minister; if not, when did you relinquish the ministry, and what has been your pursuit since?

Answer. Of the Lutheran denomination. I relinquished the ministry at the Synod in Columbus, in 1840, and since that time I have been editing a paper in this city.

4. Question by same. Did you exercise the office of minister up to the time of your leaving Germany?

Answer. I did, till about three months before I left Germany.

5. Question by same. What kind of a paper is that which you now edit; is it *it* theological, political, or infidel; and if neither of these, state its object and character.

Answer. It is not a theological, infidel, or political paper; it is a paper for general information and intelligence, and for chastising the priests, who make the people stupid, and who try to destroy our free institutions. It is also against every party in society who assumes too much power; its name in English is "the High Watchman;" its motto, "the Constitution, the best security of the freedom of conscience; free trade; no union of church and state; no terrors of excommunication." "If aristocrats and priests unite to oppress the people, they first try to make them stupid and vicious, because free thinking and virtuous men cannot tolerate oppression."

6. Question by same. Were you acquainted with Johannes Goesele, the person claimed by complainants as their ancestor; if yea, when and where did you know him, and how old were you when you last saw him? The Johannes Goesele now alluded to is he who is stated in the scheme or exhibit before filed as being born on the 8th February, 1766.

Answer. I do not know whether or not I knew that Johannes Goesele, but I knew a man whose name was Johannes Goesele at Zoar, in

Tuscarawas county, Ohio; he was keeping a tavern across the canal in Zoar, and told me he came from the same part of the country in Germany with myself; I never saw him in Germany however; he was a few years older than I; do not know whether he be now alive or not.

7. Question by same. Were you acquainted with any other Johannes Goesele than the one named in your last answer? If yea, state when and where you first saw him, and when you last had any conversation with him, and where.

Answer. I knew none other than he at Zoar.

8. Question by same. Did you ever see either of the parties write, (whose names and signatures purport to be affixed to the exhibit already filed;) and if yea, which, when, where, and how often?

Answer. I never saw either of them write; but I know the handwriting of Neurath from documents executed by him, which I saw in Wertemberg.

9. Question. What documents do you allude to, and what means had you of knowing that they were signed by the person you have named?

Answer. I have seen some documents, such as passports, &c., signed by Neurath; I have gotten such documents from the office of "foreign affairs," which had affixed to them that signature.

10. Question by same. You have stated that the heirs of Johannes Goesele are citizens of Wertemberg; what Johannes Goesele is this; did you know him; and if yea, when and where, and state when and where he died, and the names of his heirs.

Answer. I did not know that Johannes Goesele; all I know is from the scheme marked "A," hereto annexed and exhibited to me; I do not know the heirs personally, but take the information from said scheme.

11. Question by same. Have you any knowledge whatever of the parties complainant in this suit, or any acquaintance with them other than that which you have derived from reading the exhibit or scheme aforesaid? If yea, state fully.

Answer. I have no knowledge of any of the parties to this suit personally; my whole knowledge of the matter is founded on said scheme marked "A."

12. Question by same. Have you any interest whatever, directly or indirectly, in the result of this suit; if yea, what; and are you in anywise connected with, or related to either of the parties complainant?

Answer. I have no interest in it; I knew none of them, nor am I connected with, or related to, them or either of them.

13. Question by same. Have you at any time had any quarrel or dispute with either of the defendants in this suit? If yea, state it.

Answer. I never had any quarrel with any of them, but I stated, as I have said, what I thought was wrong in the principles of its constitution, and injurious to the interests of my fellow countrymen and fellow citizens; my conversation was friendly with the members.

14. Question by same. Have you at any time endeavored by persuasion or other means to prejudice the members of the association at Zoar, or any of them, against that association, and with a view to destroy or break the same up by making them leave, or otherwise abandon it?

Answer. I have not; I have written, as I have stated, that the institution was a bad one, to warn others not to go to it and become slaves like the rest.

Being re-examined by the plaintiff he says:

1. In those *geological* schemes in Wertemberg are any persons entered of record who are not citizens of the kingdom?

Answer. If a child be born in the kingdom of strangers, it is marked as a stranger; so it is of a resident who is not a citizen; in the scheme "A" the first Johannes Goesele is a judge, and of course must have been a citizen; all the descendants of citizens are citizens by law.

2. By this scheme, marked A, who are the heirs of Johannes Goesele, the farmer and separatist, born 8th July, 1766, son of John George Goesele, the first of the scheme?

Answer. The first is Maria Barbara Goesele, who was married to John Jacob Mann, a shoemaker at Boll; the children of this marriage are John Adam Mann, Anna Maria Mann, John Jacob Mann, and Maria Barbara Mann; these are the direct descendants; there is another daughter, Anna Maria Goesele, married to Carl Waldenmaier, at Hattenhoven; John George Goesele and Johannes Goesele are the other children of Johannes Goesele; whether they have children or not is not mentioned in the scheme; Anna Maria Mann is dead.

3. If the inheritance descending from Johannes Goesele is in question, would the scheme show any issue of Barbara Maria, wife of John Jacob Mann, if she was still living?

Answer. If the mother be alive, the children have no interest in the inheritance; in this scheme the death of Mrs. Mann is stated.

4. Please state whether or not Jacob Kaemmerle was a member of the Separatists at Zoar; and whether or not he is now living.

Answer. When I spoke with him he was living on land of the society; his wife belonged to the society in Germany; I cannot tell whether or not he was a member; I was told that he was a member of the second class; I do not know whether he be alive; I am informed that he is dead. (The defendants object to so much of the foregoing testimony of the witness as professes to interpret the contents or to give construction to the exhibit.)

GEO. WALKER.
JNO. STILLE, *Not. Pub.*

STATE OF OHIO,
Hamilton county, ss.

I, John Stille, a notary public of said State, for the county aforesaid, do hereby certify, that George Walker was by me sworn to testify the

truth, the whole truth, and nothing but the truth, and that the foregoing deposition, by him subscribed, was by me reduced to writing, and was taken at the time and place in the annexed notice specified.

In witness whereof I have hereunto set my hand and affixed my notarial seal at Cincinnati, this sixth day of May, A. D. one thousand eight hundred and forty-eight.

[SEAL.]

JOHN STILLE, *Not. Pub.*

The following is the exhibit marked "B," referred to in the foregoing deposition of George Walker, and annexed thereto and filed therewith, to wit:

B.—*Exhibit B.*

[For exhibit, see original, pages 89 and 90.]

(Endorsed.)—The signature of the royal county judge, Schott, of Goppingen, is hereby certified. Stuttgart, July 4, 1845.

Royal Minister of Interior.

[Minst. Seal.] V. PRIESER.

Scer. Stuttgart, July 7, 1845.

By order of the minister of foreign relations, the directors of the bureau.

[Minst. Seal.] NEURATH.

Remarks.—Those members of the family who are marked "emigrated," have emigrated to North America, in the year 1817. The foregoing scheme has been made according to the ministerial investigation in April, 1845, by the royal county notary of Boll, in Wertemberg.

[M. S.] FLORI.

The genuineness of the signature of the county notary, Flori, of Boll, is hereby certified. Goppingen, April 18th, 1845.

Royal county court.

[Court Seal.] SCHOTT.

The circuit court of the United States, for the seventh circuit and district of Ohio.

JOHN GEORGE GOESELE et al.
vs.
JOSEPH M. BIMELER et al.
} In chancery.

The defendants will take notice, that on Thursday, the first day of

June, A. D. 1848, the complainants in this suit will take the depositions of Jacob Munk and sundry witnesses, at the court-house in New Philadelphia, Tuscarawas county, Ohio, to be used as evidence on their behalf, in the trial of the above entitled cause, in the United States circuit court aforesaid, to be held at Columbus, in the State of Ohio, before competent authority, between the hours of eight o'clock, a. m., and five o'clock, p. m., of said day; and that the taking of the same will be adjourned from day to day, between the same hours, until they are completed.

DAVID QUINN,
Sol. for complainants.

Service of the above notice is acknowledged, and proof of the official character of the officer before whom the said depositions may be taken, is, by agreement, waived; also all exceptions in regard to time.

J. M. BIMELER.

Depositions of witnesses taken in this case, a cause pending in the circuit court of the United States, for the seventh circuit and district of Ohio, wherein John George Goesele et al. are complainants, and Joseph M. Bimeler et al. are respondents, in pursuance to the notice hereto returned at the head [of] these depositions.

Present, Isaac Hartman, attorney for complainants; Joseph C. Hance, attorney for Joseph M. Bimeler, one of the respondents.

Deposition of Jacob Boehringer.

Jacob Boehringer, of lawful age, being by me first duly affirmed, deposes and says:

Question by complainants' attorney. Were you acquainted with Johannes Goesele, deceased, and when and where?

Answer. I was acquainted with him in the kingdom of Wertemburg, in the years of 1808, 1809, '10, '12, and so forth, many years. I was then young, and he was old.

Question by complainants' attorney. When did said Goesele remove to the United States, and with whom?

Answer. Removed to the United [States] in the spring of 1817, with a large company, how many do not know, and they lived at Zoar.

Question by complainants' attorney. How many children did Johannes Goesele leave in Wertemberg, and at what place?

Answer. He left two daughters and a son; the son, however, had gone travelling before that time, and I do not know whether he is alive or not. The son had gone, I believe, a couple of years before the father came to this country. The daughters were left at a place called Boll.

Question. How many of the children of Johannes Goesele are living, and how many are dead, and what are their names?

Answer. So far as I know, one daughter is alive, and named Anna Maria; and the other daughter, named Barbara, is dead, and has left children; and do not know whether the son is alive or not; and he has another son in the United States, who is of the name of John, and is alive, as far as I know.

Question. To whom was Anna Maria married, and to whom was Barbara?

Answer. Anna Maria married Waldenmaier, and Barbara was married to Jacob Mann.

Question. Is Waldenmaier, the husband of Anna Maria, living or dead?

Answer. I do not know.

Question. How many children did Barbara Mann leave, and what are their names?

Answer. I know of three, but think there were four; one of the children died at Zoar, and was named Adam

Question. Where do the other children of Barbara still reside?

Answer. They still reside in Boll.

Question. Did the one who died at Zoar leave any heirs?

Answer. I do not know.

Question. How long is it since you heard of John Goesele, who came to the United States with his father?

Answer. About two months ago I heard that he was in Pittsburgh.

Question. State what the pecuniary circumstances of Johannes Goesele, deceased, were when he came to the United States.

Answer. Cannot tell exactly, but understood that he had large property. (Latter part of this answer objected to by J. M. Bimeler's attorney.

Cross examined on behalf of J. M. Bimeler.

Question. How long have you resided in the United States, and where did you previously reside?

Answer. I came to this country in the year 1841, and resided previously in the town of *Baul*, in the kingdom of Wertemberg.

Question by the same. State how old Johannes Goesele was when he left Wertemberg, in the year 1817.

Answer. I do not know certain; was an elderly man, somewhere in forty; I think between forty and fifty.

Question by same. What business was Johannes Goesele engaged in, shortly before he left Wertemberg?

Answer. He was a peasant, a cultivator of the soil, as long as I knew him, and industrious and hard working man.

Question. Whose soil did he cultivate?

Answer. It was his own; he had a large domain; the home and every thing was his own.

Question. Do you know, of your own knowledge, the soil was his own.

Answer. I know that he had no debts on the land, and that it was clearly his own.

Question. By what means do you know that it was his own land?

Answer. Because I resided in the village for more than 20 years, and was his nearest neighbor, and intimately acquainted with him.

Question. What did he do with the land before leaving Europe?

Answer. Sold it.

Question. To whom, and for what sum?

Answer. The land was sold in pieces to several individuals, and the names I do not know, and the sums they paid for them.

Question. Do you know that the land was sold by Johannes Goesele himself?

Answer. He sold the land himself, as soon as he made up his mind to emigrate.

Question. Was not Johannes Goesele in prison in Germany?

Answer. Yes.

Question. When, and how long?

Answer. He can't say, certainly; but thinks about two years, and about the years 1806 and 1807, or seven and eight.

Question. Had Johannes Goesele any bodily infirmity?

Answer. Was not at that time lame; he was a little stoop shouldered; a large and stout man.

Question. What is your age?

Answer. I am 63 years old.

Question. How many acres in the parcel of land you have spoken of?

Answer. I think there were as many as from ten to fifteen morgens; (is a measure used in Germany; do not know if they are more than [an] acre or less.)

Re-examined by complainants' attorney.

Question. For what offence was Johannes Goesele in prison in Wertemberg; and were not other members of the Separatists also in prison; and how many?

Answer. He was put in prison on account of his religion; he committed no crime; several of the Separatists were also in prison; and can't tell how many.

Question by the same. How much is [a] morgen of land worth in Wertemberg?

Answer. There has been as much as $200 or $300 paid for a single one.

Cross examination resumed by J. M. Bimeler's attorney.

Question. Do you know the price in the year 1817?

Answer. I can't tell; but land was always very dear.

JACOB BOEHRINGER.

Deposition of Jacob Munk.

Jacob Munk, of lawful age, being by me first duly affirmed, deposes and says:

Question by complainants' counsel. Are you acquainted with the children of Barbara Mann, deceased, late of Boll, in Wertemberg, Germany?

Answer. I am acquainted [with] them; they went to school with me in the town of Boll.

Question by the same. How many were there of them; what were their names; and who of them are still living?

Answer. I believe there were four; three of them I am well acquainted with. The names were John Adam Mann; Barbara, I believe, the name, and Jacob; and I can't say what the other's name was; I think it was a girl.

Question by the same. Do you recollect of these persons being called by any other names than those you have mentioned?

Answer. I do not.

Question. Is the husband of Anna Maria Waldenmaier still living, and what is his given name?

Answer. I do not know whether he is living at present, but he was when I left Boll, and his given name is, as I believe, Charles. They were all living when I left Germany; this was nearly seven years ago, and Adam Mann has since that time died at Zoar.

JOHN JACOB MUNK.

Deposition of Jno. Geo. Bohringer.

John George Bohringer, of lawful age, being by me first duly affirmed, deposes and says:

Question by complainants' attorney. Were you acquainted with Johannes Goesele, dec'd, and when, and where?

Answer. I was acquainted with him in Germany and in this country; and in the year 1817 I crossed the ocean in his company and that of the Zoar society.

Question. How many children did Johannes Goesele leave in Wertemberg, and at what place?

Answer. He left two daughters and one son in the town of Boll, in the kingdom of Wertemberg; he had one at Pittsburgh, in this country, whose name was John.

Question. What were the names of the children of the said Goesele, and which he left in Germany?

Answer. The oldest daughter's name was Barbara, and the other Anna Maria, and the son's name John George.

Question. Were any of these married before you left Wertemberg, and to whom?

Answer. None of them were married when I left Wertemberg.

Question by the same. Did Johannes Goesele bring any money with him to the United States, and how much?

Answer. Probably brought money with him; do not know how much ; he was a wealthy man in Germany.

Question by same. When did Johannes Goesele die, and where?

Answer. He died at Zoar, and do know how long ago, for it has been a considerable time ago.

Question by the same. Where did he live from the time he came to the United States until his death?

Answer. He lived in Zoar.

Question by the same. Was he a member of the society at Zoar during all that time?

Answer. He was always a member since it became a community.

Question by same. What were his habits as to industry whilst he belonged to the Separatist society at Zoar?

Answer. He was very industrious and a hard worker.

Question by same. Was he as able to earn by his labors as much as any of the rest of the members?

Answer. Certainly ; why not?

Cross examined by J. M. Bimeler's attorney.

Question. Are you not on unfriendly terms with the society at Zoar ; have you not prosecuted a suit against the society and some of its members, and did not the same result unfavorably to you?

Answer. I am not very friendly with them, because they chased me off. I did prosecute such suit, but do not know what the result is.

JOHN GEORGE BOEHRINGER.

Deposition of John Goesele.

John Goesele, of lawful age, being by me first duly affirmed, deposes and says:

Question by complainants' attorney. Were you acquainted with John Goesele, the son of Johannes Goesele, deceased; when did he come to the United States; where did he work; how long; when did he leave, and what were his habits as to industry?

Answer. I am acquainted with John Goesele, the son of Johannes Goesele, deceased; he came to the United States in the year 1817, with his father and the Zoar society. He worked at Zoar; he worked there about eleven years; he left there about the year 1828; and he was a diligent man, ready to do whatever he was bid, and learned the trade of a stonecutter, as soon as he became able on account of age and strength. He was between the age of twelve and thirteen years old when he came to the United States. JOHN GASELY.

THE STATE OF OHIO, *Tuscarawas county, ss.*

I, Thomas J. Sargent, master commissioner in chancery, do hereby certify, that John George Bohringer, Jacob Bohringer, John Jacob Munk, and John Gasely, were by me first duly affirmed to testify the

truth, the whole truth, and nothing but the truth; and that the depositions by them respectively subscribed were reduced to writing by me, and taken at the time and place in the notice specified.

THOMAS J. SARGENT,
Master comm'r, in chancery."

JOHN GEORGE GOESELE et al.
vs.
JOSEPH M. BIMELER et al.

United States' circuit court for the district of Ohio. In chancery.

The defendants will take notice, that on Tuesday, the twentieth (20) day of June, A. D. 1848, the plaintiffs above named will take the depositions of sundry witnesses, to be used as evidence on their behalf, in the trial of the above entitled cause, at the office of Dr. Edward Caspari, in the city of Louisville, in the county of Jefferson, in the State of Kentucky, before competent authority, between the hours of eight o'clock, a. m., and 5 o'clock, p. m., of said day; and that the taking of the same will be adjourned from day to day, between the same hours, until they are completed.

DAVID QUINN, *Sol'r for plaintiff.*

Service of the above notice is acknowledged, and proof of the official character of the officer before whom the said depositions may be taken is by agreement waived; also all exceptions in regard to time.

Deposition of E. Caspari.

The deposition of Edward Caspari, taken before G. J. Johnston, one of the judges of the county court of Jefferson county, in the commonwealth of Kentucky, on the 20th day of June, in the year 1848, at the office of said Caspari, in the city of Louisville, in the county and State aforesaid, to be read as evidence in a certain suit depending in the circuit court of the United States for the district of Ohio, holden in Columbus, wherein John George Goesele, &c., is plaintiff, and Joseph M. Bimeler is defendant. The said deponent being first carefully examined, cautioned, and sworn to tell the whole truth, doth depose and say:

Question by plaintiffs' attorney. What acquaintance, if any, have you with the society of Separatists, at Zoar, in Tuscarawas county, Ohio; how long did you live among them, and what was your business?

Answer. I was employed at Zoar as a physician, and resided there from July, 1843, till December, 1844.

Question by same. How is the society conducted, and who wills and directs its operations?

Answer. By all I have seen at Zoar, I believe that Bimeler directs every thing relating to the society.

Question by same. What relation exists between Joseph M. Bimeler and the other members?

Answer. I believe that, according to the constitution of the society, there shall be perfect equality among the members of the society, and Joseph M. Bimeler is only a member like all the others; but in fact J. M. Bimeler is their absolute master and king, and all the other members are his willing slaves.

Question by same. Do you know of Bimeler's pretending to be divinely commissioned to control the society, and of the members believing him to be so?

Answer. It is difficult for one who is not a member of the society to obtain accurate information of this matter. I never heard Bimeler saying directly that he had received such a commission; Bimeler makes use, sometimes, in his sermons and conversations of a kind of mystical or symbolical language, which was incomprehensible to me. By what I could learn by frequent conversations with the members, they consider Bimeler as a being divinely commissioned. There are, however, a few of the members, who, in reality, do not entertain that *believe;* yet they are very careful to conceal it from Bimeler and the other members. I remember, however, a conversation which I had once with a female member, when we spoke about something *what* Bimeler had done, which seemed immoral or otherwise not right. The female remarke*t* that she did not deny that, to a mere human understanding, this act appeared wrong. However, she knew that human understanding was apt to err. Only in one thing she was certain, namely, that Bimeler was the only person in the society who had received certain commissions, and who knew to what end and object the society was destined for. Knowing this, she would rather mistrust her own understanding and senses, even if it sometimes appeared to her that Bimeler had done something which seemed to be wrong.

Question by same. What do you know, if any thing, about Bimeler's pretending to confer with spirits or heavenly visions which cannot be seen by the other members, of his so persuading the members, and of their belief in such intercourse?

Answer. I do not know any thing about it, except what I stated above.

Question by same. Are the members of society ignorant or intelligent, and what liberties have they?

Answer. I believe that in some things they are as intelligent as other people of the same class and calling, but in other things they are more ignorant; there is, however, a difference in intelligence among them. Bimeler, L. Birk, and possibly one or two of the other members, are more intelligent than the rest of the Society. In general, they are not behind in intelligence in the mechanical arts, in farming, manufactures; the most of them also know how to read and write, some of them however imperfectly. What their intelligence is in religion and morals is difficult to say; they, themselves, think that they are more enlightened in this matter than all other religious denominations. To me, person-

ally, it appeared that there was a great deal of confusion, superstition, ignorance, and folly in their religious tenets. In relation to the institutions and laws of our country they are utterly ignorant, with the exception of Bimeler, Birk, and one or two others above alluded to. It even seemed to me that their leader does all he can to prevent them *to* get acquainted with the manners and customs of this country. So far as liberties are concerned, they have none; their conduct is governed in every respect by the whims and caprices of J. M. Bimeler to such an extent as to be incredible to persons other than those who have witnessed it.

Question by same. In whose name is the business of the society done, and in whose name is the property holden?

Answer. My knowledge of the business transactions of the society is limited; so far as I know, the business is done under the name of J. M. Bimeler; I have never seen the deeds in relation to the real estate, therefore cannot say who holds the legal title, but have understood from Bimeler, and some of the other members, that all the members of the society were equally interested in the property.

Question by same. What power or influence have the members of said society independent of their submission to the will of Bimeler?

Answer. Practically they have none; their constitution gives to the members several rights and privileges, but they are neutralized by their fear and submission to Bimeler, as above stated.

Question by same. What is done with a member if he displeases Bimeler?

Answer. Whatever pleases Bimeler; some are reprimanded; some are deprived of things which they had enjoyed before, and which were deemed essential to their comfort; and others have been expelled from the society destitute and pennyless. Many other punishments are inflicted *to* the disobedient to gratify the feelings of Bimeler.

Question by the same. What are the morals of the society?

Answer. Their code of morals is very strict, even more so than an enlightened state of society would justify; many innocent pleasures which are tolerated in other societies are denied to them. Their code of morals is peculiar to themselves, but Bimeler has occasionally seen fit to alter and modify the same according to his own notions. Formerly all sexual intercourse, even between husband and wife, was considered immoral. Bimeler was one of the first who transgressed that precept of the society by taking a wife; his example was followed by others with his permission. However, this transgression of their former rules is one of the grievances complained of by some of the old members.

Question by same. Do you know of any member having been driven off; if so, how many?

Answer. I have heard that several members have been driven off from the society, but I do not know how many. Among them, I know of two who were expelled from the society a short time before I arrived at Zoar, Weishaar and Schaute. With the first I am personally ac-

quainted, but Schaute I do not know personally; both are very old men; I believe they are of the *primety* members. Weishaar had the reputation of having been all his life a very industrious and hard working man; heard that he often acted as an overseer and foreman. Schaute is a cripple, and was employed by the society as schoolmaster and watchmaker. Schaute having been expelled from the society entirely destitute, was supported by the county, at public expense, at the poor-house. Soon after I left Zoar, another member, Joh. Gasely was expelled from the society. Joh. Gasely had a wife who was also a member, and several children. I believe that John *Goeseley's* wife was not expelled, but followed her husband voluntarily. I believe the whole family was *send* away from the society entirely destitute. At the same time another member, Bohringer, left the society; I do not know if he was expelled, or if he left for fear of mal-treatment because he belonged to the dissatisfied party. Bohringer was one of the oldest members; had the reputation of a very moral, pious, and in every respect exemplary member, who had worked very hard his whole life.

Question by same. What is the value of the property belonging to the society?

Answer. I am unable to estimate accurately the value of the property belonging to the society; I have heard that it was estimated some years ago at about $500,000, *fife* hundred thousand dollars. I should think that this estimate is correct.

Question by same. Do the members vote; and, if so, do they vote their own sentiments?

Answer. I believe all the members, male and female, have a right to vote. By what I could learn by conversations with some of the members, I believe that they do not always vote their own sentiments. Some of the members told me that they would not dare to *withold* their vote from a candidate proposed by Bimeler, or give their vote to a person to whom Bimeler was opposed, whether such a person is a candidate for a station in their own society or a political station for the State, or United States Government. In relation to political affairs, I regard them extremely ignorant, and incompetent, with the exception of the persons above named, (Bimeler, Birk.) Bimeler is the only of the members who receives political newspapers. Of the papers, only one or two weekly German papers are circulated, after Bimeler has examined them, among a few of the more favorite members. So far as I remember, their mode of voting at political elections is this: At the election day each member who has a right to vote is furnish*t* with a ticket with the names of the candidates, and is directed to go to the polls and deposite these. They uniformly vote for the same candidate designated upon the tickets furnished to them.

Question by same. What is the yearly income of the society?

Answer. I do not know.

Question by same. What do you know, if any thing, of Bimeler's

compelling members of the society to swear to things which were not true?

Answer. A member, whose name, I believe, is Heilman, told me that Bimeler, partly by threats, partly by exhortations, compelled him to state upon oath that Schaute did not earn more than his living while he resided at Zoar. He, Heilman, told me that his conscience condemned him for having sworn to something which was not *thrue*, but that he did so only through fear of Bimeler I also remember that some other members of the society told me that some of the old female members preached this doctrine, that it is not necessary for the faithful to tell to the *devill* the truth.

Question by same. How are the members treated?

Answer. By what I have seen and heard at Zoar, it is my opinion that the members are treated very severely by Bimeler. Bimeler rules the members with an iron rod; they are more afraid of him than about any thing else on earth. I have often heard members, whose confidence I possessed, complain bitterly about Bimeler's severe and unjust treatment; but still the same persons would never dare to show their disapprobation in Bimeler's presence, or even to others, with whom they were not intimately acquainted. It was generally the impression among the members that they would be expelled from the society if they should dare to show any opposition to the will and command of Bimeler. Even the trustees had the same fear of Bimeler; yes, some of them were still more in awe of Bimeler than the majority of other members. I have heard that Bimeler had given severe reprimand to a trustee, even when it seemed to me that the trustee was in the right and Bimeler in the wrong; but notwithstanding this, the trustee did not dare to answer. I have had many opportunities to observe the behavior of Bimeler to the trustees, but I always found that the trustees had no will of their own, but were only instruments of Bimeler. One old man, a member who has to tend the cattle, I believe he is about 60 years old, complained bitterly to me that one of the trustees had beaten him severely. This old man was accustomed to use tobacco, and as he did not get any from the society, he had sold some apples for some tobacco, and for this he was beaten. Many members were fond of tobacco, and as Bimeler did not allow them any, they sometimes asked me for some. Members had a very laborious life, and have less privileges and conveniences than their own servants. They possess abundance of property, but are not allowed to enjoy it, only what is necessary to life, and what is necessary to keep up their strength for hard labor, is allowed them. The female members have to perform labor which in this country is considered altogether unbecoming their sex. They have to perform all kinds of labor in the fields, such as cutting grain, hoeing, carrying heavy burdens, &c. Some of the females which I attended as a physician, told me that they thought that they had injured their health by hard labor. They cannot have such food as they please, but must take what is given to them. They cannot dress themselves as they please, but must wear the *clothe* which Bime-

ler thinks fit that they should wear. They are not allowed any amusements. From childhood till they die, they have to labor incessantly, and for this they have nothing else but coarse and ill-made clothing, and sufficient food to keep them by strength. It is difficult for any person who is brought up in Zoar to make his living any where else; the customs and manners at Zoar are almost in every way different from all the world round them. I believe the children are purposely so educated, to make them unfit to live any where but in Zoar. Bimeler is the only member who enjoys luxuries. He had a large and expensive house built for himself, which is worth more than all the other dwellings of the members taken together; he keeps an elegant carriage and two fine horses for his own use; all that he wishes for he can get, and the best of every thing *what* the place affords is for his own use. In fact, the whole property of the society, and every thing *what* the members gain by their indus*trie* and hard labor, is used and treated by him as if he was the sole owner. I have heard members complaining that Bimeler squandered away by foolish speculations, or by his whims, large sums of money belonging to the society. They also complained that every dollar, yes, even a single cent, which the members gained by their indus*trie*, had to be immediately delivered up to Bimeler, but that Bimeler had never given any account [of] what he had done with his money. I have heard members say that they had heard that the society had recently got in debt; that they were greatly surprised at this, for they could not understand what had become of all the money which they made with their furnaces, factories, mills, farms, and from other numerous sources. By asking them why they did not ask Bimeler for his account, they answered that they would not dare to do so; that such a question would be considered as utterly disrespect*full* and impertinent, and that if they displeased Bimeler with such a question, they would be in danger to be expelled from the society, and then they and their children would be utterly destitute. I also heard members say that formerly the society did not engage in more business than they were able to attend to with their own people; that, however, recently, Bimeler's cupidity induced him to carry on such an extensive business that the members of the society were unable to attend to the whole. In consequence of this, a great number of servants, male and female, were hired, and that the members and their children had to work in compa*gnie* with their servants. Among *this* servants, were always some whose morals were bad; and as their young people and children had to be constantly in their compa*gnie*, they early acquired bad and immoral habits. To this cause it was ascribed that some young girls, children of members, became pregnant before marriage. It also made the children and young members unhappy and dissatisfied when they saw that the servants had many privileges which were denied to members. A servant could wear whatever clothes he pleased; a member only such as Bimeler allowed to him. A servant could amuse himself, or go to another place on a visit; a member could not. A servant could buy with his wages whatever he liked at the store, or take a

glass of beer or wine at the tavern; to a member was not allowed a single cent; he could buy nothing. The members are obliged to deliver up their children at an early age, to persons which are appointed by Bimeler or the trustees. This is a source of grief and unhappiness to some of the parents, who would prefer to bring up and watch over the morals of their children themselves. However, there are members who are favored by Bimeler in this respect, and who are allowed to keep their children with them.

I also remember that much dissatisfaction existed among a considerable number of the young members, because Bimeler had refused to let them form, among themselves, a band of music. They were very fond of music, and wished that Bimeler would allow them some musical instruments and permission to practise in the evening. They told me that Bimeler, by refusing their request, had given as his reasons for doing so, that if he allowed the young men to practise music, they would also, probably, play worldly pieces of music, and he could only allow them to play their usual religious hymns. Some of the married members complained to me that Bimeler encouraged a system of espionage among the families; that it was very common if a man, believing himself wronged by Bimeler, would utter complaints or expressions which were considered disrespectful, his own wife would go immediately and inform Bimeler what her husband had said. For such information the wife would generally be praised by Bimeler as a good and faithful member, but the poor husband would be punished and reprimanded. As several years have passed since I left Zoar, I cannot remember all the different complaints and grievances which some of the members confided to me; but I remember sufficient to justify me in saying that the members are treated by Bimeler very tyrannically, and that many among them feel themselves very unhappy. I have observed that all such among the members who still adhere to their primitive religious doctrine, and who consider Bimeler as a kind of divinely commissioned leader, are satisfied with the state of things existing at Zoar, and feel themselves contented and happy. To this number belong nearly all of the old female members and the most of the old male members, about one-half of the middle aged, and a few of the young members. On the other hand, such of the members whose belief in Bimeler's divine commission is shaken, and who also mistrust more or less his doctrines, feel themselves very unhappy and desire a change. To this class belong nearly all the young members, about one-half of the middle aged, several of the old male members, and so far as I know, only one or two of the old female members. In this statement I am guided by that *what* the members themselves told me in confidence. The dissatisfied members are, however, afraid to show openly their dissatisfaction; they know, by experience, that the most who have shown themselves dissatisfied and who have opposed Bimeler's tyranny, have been expelled from the society; some of the dissatisfied members told me that they would be very glad to leave the society if they could only get so much from their common property as would keep them and their

families from want and utter poverty. I heard some members express themselves that Bimeler paid a high salary to a lawyer merely to teach him all his tricks which could serve him to prevent a seceding member to recover by a law suit his part of the common property. In short, I have convinced myself, while residing at Zoar, that about one half of the members would very gladly dissolve their connexion with Bimeler if they were only sure that they could recover what they consider their rightful property. And further says not

EDW. CASPARI.

STATE OF KENTUCKY,
Jefferson county, ss.

I, G. J. Johnston, a justice of the peace of said county, do hereby certify, that Edward Caspari was by me sworn to testify the truth, the whole truth, and nothing but the truth, and that the deposition by him subscribed, as above set forth, was reduced to writing by said Edward Caspari, and was taken at the time and place in the annexed notice specified.

Given under my hand and seal, (the law not requiring me to keep a seal of office,) this June 20, 1848.

G. J. JOHNSTON, [SEAL.]
J. P., J. C.

United States circuit court, for the district of Ohio.

JOHN GEORGE GOESELE et al.
vs.
JOSEPH M. BIMELER et al.
} In chancery.

The defendants will take notice, that depositions will be taken in the above cause at the office of Augustus Wilhelmi, in Canal Dover, Tuscarawas county, Ohio, on Thursday, the twelfth day of April, 1849, between the hours of 6 a. m. and 6 p. m. of said day, to be continued from day to day till all are taken. DAVID QUINN,
Sol. for complainants.

Received notice and proof of the official character of the person taking the depositions waived.
April 9th, 1849.

J. M. BIMELER.

Depositions of witnesses taken in a cause pending in the United States circuit court, for the district of Ohio, in chancery, wherein John George Goesele and others are complainants, and Joseph M. Bimeler and others are respondents, and taken at the instance of said complainants.

Present, David Quinn, counsel for complainants, and Joseph C. Hance, counsel for respondents.

Deposition of John George Boehringer.

John George Boehringer, of lawful age, deposes as follows:

Question by Mr. Quinn, counsel for complainant. State your age, your residence, and your occupation.

Answer. I am seventy years of age; live in Dover tp., Tuscarawas co., O.; I live with Mr. Goesele and work about his house.

Question by same. How long did you live at Zoar?

Answer. From 1817, when we emigrated from Germany, until the year 1845.

Question by same. Were you a member of the Zoar society?

Answer. I was.

Question by same. Were you acquainted with Johannes Goesele, a member of that society?

Answer. I was.

Question by same. Where did Goesele die, and when?

Answer. He died at Zoar about 23 or 24 years ago.

Question by same. In what part of Germany did said Goesele reside before he came to America?

Answer. In the kingdom of Wertemberg.

Question by same. Were you acquainted with Goesele's children; and if so, who were they?

Answer. I was acquainted with them; their names are Barbara, Ann Mary, John George; Barbara is dead, and Ann Mary lives in Germany; and John George's residence I do not know, but suppose it to be in Germany yet.

Question by same. To whom was Barbara married?

Answer. To a shoemaker named Adam Mann.

Question by same. Where does Mann live?

Answer. He lives at Boll, Germany.

Question by same. To whom was Ann Mary married?

Answer. I don't know.

Question by same. *Was* you acquainted with Johannes Goesele's wife?

Answer. I was.

Question by same. Do you know that they were married?

Answer. I do.

Question by same. Were the children of whom you have spoken the issue of that marriage?

Answer. They were.

Question by same. Was Johannes Goesele one of those who first emigrated to Zoar in 1817?

Answer. He was.

Question by same. What were his circumstances in Germany?

Answer. They were good.

Question by same. Did he bring any money or property with him to Zoar?

Answer. He did.

Question by same. What improvements, if any, did he make at Zoar?

Answer. He built a house for himself.

Question by same. What became of the money, property, and house?

Answer. They are with the society or in Bimeler's hands.

Question by same. What did Goesele work at while at Zoar?

Answer. Different kinds of work.

Question by same. What was his labor worth; or was it worth more than his support?

Answer. It was worth more than his support; but what it was worth I cannot say.

Question by same. Was it worth as much as the labor of other members?

Answer. It was.

Question by same. Who controls and directs that society?

Answer. Joseph M. Bimeler.

Question by same. What relation practically does Bimeler have to the rest of the members?

Answer. He carries the business on just as he pleases.

Question by same. If Bimeler directs anything, dare any of the members resist him?

Answer. They dare not.

Question by same. How many members has Bimeler compelled to leave the society, and who are they?

State their names and ages.

Answer. I don't know how many exactly, he has compelled Christian Weishaar, aged 71 years; John George Schaute, aged seventy-two years; John Goesele, who now resides at Dover, aged , I don't know exactly; Ann Mary, (John Goesele's wife) aged about 43 years; Matthias Keilman, and his wife; Barchart, Fred'k Seiber and his wife. and myself to leave the society. I do not now remember what others.

Question by same. In whose name is the property in Zoar now holden?

Answer. In Joseph M. Bimeler's name.

Question by same. For whom was the said property purchased?

Answer. For the Zoar society.

Question by same. Who was your agent to purchase that property?

Answer. Joseph M. Bimeler.

Question by same. What was your object in purchasing the property; was it get homes, or what was it?

Answer. It was to get our own homes.

Question by same. In whose name is the business of the society done?

Answer. In Bimeler's name.

Question by same. How many clases are there in said society?

Answer. There are two.

Question by same. Which class owns the property?

Answer. The second class.

Question by same. Of which class was Goesele a member?

Answer. Of the second class.

Question by same. What property does the first class own; and what do they get for their labor?

Answer. They have no property; they have the privilege to take away what they bring with them; what I mean by their having no property is, that they have no interest in the common property of the society; they get nothing for their labor but their support.

Question by same. What property or money did these members get who were compelled to leave the society?

Answer. Nothing.

Question by same. Where are Schauty and Weishaar now?

Answer. In the poor-house.

Question by same. Are you acquainted with the religion of the Separatists?

Answer. I am.

Question by same. Is a union of property any part of their religion?

Answer. It is not.

Question by same. Is equality of members a principle of that religion?

Answer. It is.

Question by same. How do they treat their members at Zoar, who offend Bimeler?

Answer. They are not treated well.

Question by same. How is equality now observed at Zoar?

Answer. There is a difference.

Question by same. How did they treat you during the latter part of the time that you were at Zoar?

Answer. Not good.

Question by same. Who of their members have they whipped?

Answer. I got whipped; was struck in the face by an old woman; John George Youse was also whipped.

Question by same. How old was Youse; and what does he do in the society?

Answer. He is 67 years old, and attends to cattle for the society.

Question by same. Who whipped Youse?

Answer. One of the trustees of the society.

Question by same. How did that old woman come to strike you in the face?

Answer. She was put up by Bimeler and the rest to ill treat me. They put up a bed for her in my own room where I slept and worked.

Question by same. Who slept in that bed afterwards?

Answer. This old woman did.

Question by same. Was she a modest or a scolding old woman?

Answer. She was scolding continually, and went so far as to accuse me of stealing.

Question by same. Have you ever heard Bimeler give orders to the trustees; and if so, what were his instructions?

Answer. I have heard him instruct them not to do any thing without his knowledge and will.

Question by same. Would they then dare to do any thing without consulting him?

Answer. Very little.

Question by same. If they had disobeyed his orders, what would probably have been done with them?

Answer. He said to them, and treated them afterwards as he pleased.

Question by same. Who gets all the money of that society?

Answer. Only Bimeler; he gets all the money.

Question by same. Of how many members did the society originally consist, and of how many does it now consist?

Answer. In the beginning (I don't recollect precisely) about two hundred and fifty; at present there are about one hundred, or a little over.

Question by same. Did you ever call on Bimeler for an account of the money he had received for the society?

Answer. I have.

Question by same. Did you ever get an account?

Answer. I did not.

Question by same. Has Bimeler ever accounted to the society for the money he has received?

Answer. He never has.

Question by same. What is Bimeler's occupation in the society?

Answer. He preaches for the society, and makes contracts for things that he wants to have done.

(The foregoing excepted to by respondents' counsel.)

Cross examined by Mr. Hance, for respondents.

Question by him. In naming the children of Johannes Gasely, did you not omit one; had he not a son named John Gasely?

Answer. I did omit one; it was John Gasely.

Question by same. Was this John Gasely also a child of the marriage of which you have spoken?

Answer. He was.

Question by same. Did this son, John Gasely, accompany his father to this country; if so, where did he reside until and at the death of his father?

Answer. He did accompany his father to this country, and resided with him until his death, at Zoar.

Question by same. How long after the death of his father did he reside at Zoar, and was he a member of the society?

Answer. I don't know exactly how long, probably a year. I don't know whether he was a member of the society or not.

Question by same. About how long is it since you last heard of him, and where did he then reside?

Answer. I heard of him about five years ago, he was then in Pittsburgh, Pennsylvania.

Question by same. About what was his age when he left Zoar?

Answer. I don't know exactly, he was about 24 years old.

Question by same. How long before you left Germany did Barbara die?

Answer. She died since I left Germany.

Question by same. Did she marry before you left Germany; and if so, how long?

Answer. She was married about a year or two before I left.

Question by same. Which was the eldest of the children of Johannes Gasely?

Answer. Barbara was the eldest.

Question by same. About what difference between Barbara's age and your own?

Answer. I am thirty years older than her.

Question by same. About what was the age of Johannes Gasely at the time of his marriage?

Answer. I cannot say how old he was; he was at least six or eight years older than myself.

Question by same. Was he not more than twenty years older than you?

Answer. I am not sure; I don't believe he was so much older than me.

Question by same. How long had Johannes Gasely been married before you married?

Answer. I don't know; I lived a good piece off from him at that time, and was not very well acquainted with him.

Question by same. What was the age of your eldest child when you left Germany?

Answer. I think twelve years.

Question by same. Was not Johannes Gasely lame when he came to this country; and did he not continue so throughout his life?

Answer. He was not exactly lame, but was a little stiff, and continued so during life.

Question by same. Specify the articles of property which he brought with him to this country.

Answer. I cannot do it.

Question by same. State the amount of money that he brought to this country.

Answer. I do not know.

Question by same. Where was the house situate, which you say he built; of what material was it composed; and what were its dimensions?

Answer. It was in the village of Zoar, close to the meeting house; was composed of hewed logs, and was in size about 18 by 20 feet, and one story high.

Question by same. Was this one of the early buildings put up in Zoar?

Answer. It was not the first, but one of the first.

Question by same. Were not the first buildings erected in Zoar put

Answer. I have heard him instruct them not to do any thing without his knowledge and will.

Question by same. Would they then dare to do any thing without consulting him?

Answer. Very little.

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Answer. I don't know exactly how long, probably a year. I don't know whether he was a member of the society or not.

Question by same. About how long is it since you last heard of him, and where did he then reside?

Answer. I heard of him about five years ago, he was then in Pittsburgh, Pennsylvania.

Question by same. About what was his age when he left Zoar?

Answer. I don't know exactly, he was about 21 years old.

Question by same. How long before you left Germany did Barbara die?

Answer. She died since I left Germany.

Question by same. Did she marry before you left Germany; and if so, how long?

Answer. She was married about a year or two before I left.

Question by same. Which was the eldest of the children of Johannes Gasely?

Answer. Barbara was the eldest.

Question by same. About what difference between Barbara's age and your own?

Answer. I am thirty years older than her.

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Question by same. Was this one of the early buildings put up in Zoar?

Answer. It was not the first, but one of the first.

Question by same. Were not the first buildings erected in Zoar put

up and completed by the joint labor of the members who first came on?

Answer. Three or four of the first were so erected.

Question by same. Was this house built before or after the formation of the society?

Answer. Afterwards, I think, though I am not certain.

Question by same. Did Johannes Gasele become a member of the society at its original formation?

Answer. He did.

Question by same. Were other houses in Zoar being built at the same time of the building of Gasely's house?

Answer. There were.

Question by same. Was not the timber for these houses cut and hewed by the same laborers, and hauled by the same teams?

Answer. I cannot say for certain; I then lived about two miles from Zoar, upon Zoar land.

Question by same. Do you know of Johannes Gasely having paid a dollar for the materials or labor about the construction of that house?

Answer. I do not.

Question by same. Was he not usually employed, when you saw him engaged in labor, in chopping fire wood at the houses in the village of Zoar?

Answer. He was; he also went out to the field, and instructed the women how to work.

Question by same. How many trustees have they in the society at Zoar?

Answer. Three.

Question by same. For how long time are they elected?

Answer. Three years.

Question by same. Who were the trustees for the three last years that you were at Zoar?

Answer. Lewis Burk, Jacob Ackerman, and Jacob Silvan.

Question by same. Did not Ackerman have charge and superintendence of the agricultural operations of this society?

Answer. He did.

Question by same. Had not Sylvan charge and superintendence of the mechanical operations of the society?

Answer. He had.

Question by same. Had not Burk charge and superintendence of the business of the society abroad?

Answer. He had.

Question by same. Was not Bimeler the treasurer of the society?

Answer. He was.

Question by same. For some time before leaving Zoar, did you not reside in a house by yourself?

Answer. I did; I had to do my business there.

Question by same. Did you not go to Burk, as one of the trustees,

and request him to furnish you with a housekeeper; and did you not make choice of the woman who proved to be a scold?

Answer. I did go and ask him for a housekeeper. I was a stocking weaver, and chose this woman because she was some acquainted with that business, and I needed assistance. Burk told me at the time that if I knew her as well as he did, and the rest, I would not choose her as a housekeeper; I then did not want her, but Bimeler then sent her to my house against my will.

Question by same. Did you hear Bimeler say that she should come?

Answer. I did not hear Bimeler say so, but she told me that he sent her.

Question by same. Did you hear Bimeler, or any of the rest, direct her to scold or ill-treat you?

Answer. I did not.

Question by same. Did you leave Zoar of your own accord, or *was* you expelled from the society?

Answer. There was no other way but that I must leave, because the people were so that I could not stand it.

Question by same. Did you not bring suit against Bimeler and the society after you left; and if so, what was the result of that suit?

Answer. I did bring suit against them. I don't know what the result of the suit has been; one of my lawyers died, and the other gave it up.

Question by same. Do you not expect that this suit will break up the society, and that you will then get a portion of the property?

Answer. I do.

Question by same. Do you not ardently desire that such may be the result?

Answer. I do not exactly wish that; if the society will only give me my portion, it may stand as long as it pleases. I only want what is coming to me.

Re-examined by Mr. Quinn, for complainants.

Question by him. Are there any other lame men in the society other than Gasely?

Answer. Silvan is lame.

Question by same. Are there any other cripples in the society than Gasely?

Answer. Bimeler has one short leg, and one large eye.

Question by same. Are not the trustees, as well as the members, the mere creatures of Bimeler's will? (Objected to by respondents' counsel.)

Answer. They are.

Question by same. How long was it after you settled at Zoar that Gasely built his house?

Answer. I don't know; but I think he was building his house when the property was put in common.

up and completed by the joint labor of the members who first came on?

Answer. Three or four of the first were so erected.

Question by same. Was this house built before or after the formation of the society?

Answer. Afterwards, I think, though I am not certain.

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Answer. They are.

Question by same. How long was it after you settled at Zoar that Gasely built his house?

Answer. I don't know; but I think he was building his house when the property was put in common.

Question by same. What was the value of the labor of Gasely's son to the society during his minority?

Answer. It was worth about $6 a month, I think.

Question by same. How long did he labor in the society before he became of age?

Answer. Probably about 6 or 7 years. (The foregoing objected to by respondents' counsel.)

J. GEORGE BOHRINGER.

Deposition of Jacob Seybold.

Jacob Seybold, of lawful age, deposes as follows:

Question by Mr. Quinn, complainants' counsel. Are you acquainted with the Separatist's society at Zoar?

Answer. I am.

Question by same. Who governs and directs that society?

Answer. As much as I know, Bimeler and the trustees.

Question by same. Do the trustees govern under Bimeler, or Bimeler under the trustees?

Answer. As much as I know, the trustees always go to Bimeler for instructions.

Question by same. Is the society a democratic society; or is it rather an institution of a master and his slaves in practice?

Answer. I have heard that they vote as is common, but instructions are always given to them beforehand how they shall vote. (Objection to this answer by respondents' counsel.)

Question by same. Have you any acquaintance with the principles of the "Separatists" religion?

Answer. I have.

Question by same. Is a union of property of all the members in one common fund any part of their religion?

Answer. It is owing to their own free will; they can own it together or separately, and still be "Separatists."

Question by same. Is equality a necessary principle in their religion?

Answer. It is.

Question by same. What is Bimeler's style of living at Zoar?

Answer. How it is in eating and drinking I cannot say; he lives in a better house than the rest; I have seen him ride in a carriage, but not the rest.

Question by same. How much is his house worth more than any other man's house in the society?

Answer. As near as I can judge, his house is worth any two or three of the best houses in Zoar.

Question by same. Has Bimeler any favorites in the society?

Answer. I cannot tell.

Question by same. Are the other members' dwelling houses as good as those of the trustees?

Answer. I don't know; I don't know where the trustees live.

Question by same. How far do you live from Zoar?

Answer. Three miles and a half.

Question by same. In whose name is the business of the society done?

Answer. In Bimeler's name, as much as I know. (The foregoing is excepted to by respondents.)

Cross examined by respondents' counsel.

Question by him. Did you ever reside at Zoar, or were you employed there?

Answer. I remained there 14 days when I first came to this country, (having the fever at that time;) I never resided there, nor was I employed there. The time that I remained there sick was in the fall of 1833 or 1834.

Question by same. Did you ever hear Bimeler give orders to the trustees, or did you ever hear them ask him for orders?

Answer. No.

Question by same. Do you know, of your own knowledge, any thing about their elections or manner of voting at Zoar?

Answer. Not of my own knowledge; only what I have heard from the members.

Question by same. Have you heard any thing on this subject except from members, who are disaffected towards the society?

Answer. I heard it before there was any difficulty between the members of the society.

Question by the same. Who did you hear it from before there was any difficulty?

Answer. I cannot tell just now; I was in different houses when I heard it.

Question by same. Where did you acquire your knowledge of the principles of the religion of the Separatists; in this country or Germany?

Answer. The first knowledge I got of them was in Germany.

Question by same. Were you ever in Bimeler's house.

Answer. I think I was there once.

Question by same. Do you know how many of the members reside in that house?

Answer. I do not.

Question by same. Do you know how many members reside in the same house with Birk?

Answer. I do not.

Question by same. Are not comfortable houses provided for all the members?

Answer. Partly, but as much as I know a good while back; some of them were poorly provided.

Question by same. Do you, of your own knowledge, know in whose

name and for whose account the business of the society is conducted?

Answer. I do not.

Re-examined by Mr. Quinn, for complainants.

Question by him. What have you ever heard any of the members say (if any thing) about Bimeler's directing the trustees? (Objected to by respondents' counsel.)

Answer. I have heard from them that Bimeler gave orders every day to the trustees as to what they should do.

Question by same. Have you ever seen any promissory notes given by the society; and if so, in whose name were they given? (Objected to by respondents' counsel.)

Answer. I have only seen orders on the store; I have never seen promissory notes.

JACOB SEYBOLD.

Deposition of Martin Reily.

Martin Reily, of lawful age, deposes as follows:

Question by Mr. Quinn, complainants' counsel. State your age, your residence, and your occupation.

Answer. I am 49 years old; I reside in Bethlehem township, Stark county, Ohio, about 6 miles from Zoar, and am a farmer.

Question by same. Have you any acquaintance with the society of "Separatists" at Zoar?

Answer. I have; I was a member of that society.

Question by same. When did you leave that society, and for what reason?

Answer. In 1825. I left it for a great many reasons; one was slavery. I thought I did not want to be a slave any longer; I mean by this that I could give a great many reasons, but to make my answer short, I did not want to be a slave any longer.

Question by same. Where did you board while at Zoar, and who with.

Answer. I boarded at 4 different places: first with my mother in John Badge's house, before the society was united; next (and after the society was united) with John Badge, in the same house; next with Bimeler; and next at the mill-house near the grist mill; and next Jno. Knave's house, near the cooper shop.

Question by same. Who governs and directs that society?

Answer. Jos. M. Bimeler.

Question by same. How long has he done so?

Answer. As long as I got acquainted with him, that is, ever since I came to Zoar, which was about 7 months after they came to Zoar; I came to this country in the same ship with Bimeler and the others, but did not reach Zoar until about 7 months after they did.

Question by same. How long did you remain in that society?

Answer. About 8 years—a little over.

Question by same. Are you acquainted with the principles of the Separatists' religion?

Answer. Yes.

Question by same. Is a community of property any part or parcel of that religion in the church?

Answer. It is not to my knowledge; Separatists may hold their property separately, as well as any other persons.

Question by same. Were you at Zoar when a community of property was proposed?

Answer. I was.

Question by same. Did that proposition meet with any opposition at that time?

Answer. Yes, it did.

Question by same. Who opposed it?

Answer. I don't know that I can name all of them; Bimeler at first opposed it; some of the Ackerman's, and Boker and others, whose names I cannot now recollect, also opposed it.

Question by same. What was the real object of putting their property and labor in common?

Answer. They had purchased a large tract of land, and it appeared that they would hardly get through, every one being for himself, as they had been, that is, to pay for the land; and also, it was said by some that it was their duty as Christian members in love to put their property in common.

Question by same. State, if you can, what was the real object?

Answer. It was to make money fast in order to pay for the land.

Question by same. Did they make much after their association?

Answer. About a year after their association they began to make money fast.

Question by same. When did they pay for their land?

Answer. One payment was made while I was there, and I heard men say, when a number of them was together, that they could meet the next payment a good while before it was due.

Question by same. Do you know anything about articles of association having been gotten up at Zoar?

Answer. Yes.

Question by same. What was the understanding among the members as to the association; was the property of all the members to be united in one common fund, that is, of those who had interest in the property at Zoar; or were only a portion of them to unite?

Answer. The agreement was, that they (the members) should all put their property together alike, the poor to be like the rich, and the rich like the poor, and no one should be higher than another.

Question by same. Was the property then united in pursuance of this agreement?

Answer. It was.

Question by same. Were those articles of which you have spoken then drawn up?

Answer. They were, in pursuance of that agreement.

Question by same. Did all the members then sign those articles?

Answer. No.

Question by same. Name some who did not?

Answer. Stephen Hoover was one; Joseph M. Bimeler did not, while I was with the society; I don't know whether there were others, but I think those were all who did not sign the articles.

Question by same. When did Bimeler's opposition to the union of property cease?

Answer. It was but a short time, perhaps a week or two, may be not that long, before the union was effected; he assented to it.

Question by same. Did he or did he not encourage others to sign the articles?

Answer. He did, after he got to be in favor of it.

Question by same. After he had got their names to that paper, what did he do with it?

Answer. He kept it, or it was left in his care.

Question by same. Who is the preacher for the society?

Answer. Bimeler.

Question by same Has he much control over the society, or are the members all upon an equality?

Answer. He has good deal of control over the other members; I think there is a good deal of difference between him and other members.

Question by same. How does he govern; is it by written articles or by his own will and pleasure? (Objected to by respondents' counsel.)

Answer. I don't think he looks to any written articles; I think he governs according to his own will; at least he did so while I was there, so far as I learned.

Question by same. Did you sign those articles of which you have spoken?

Answer. Yes.

Question by same. Did you ever get to see them afterwards?

Answer. I heard them read once afterwards.

Question by same. When you left did you get any money from Bimeler, and did you give a receipt in full; how much did you get?

Answer. Yes, I got ten dollars, and gave a receipt for it in full.

Question by same. State all about your leaving, and your conversation with Bimeler.

Answer. Well, I am sorry to say what I have to say; but I suppose I must tell the whole truth; I'll give the truth as far as the Lord gives me strength. (The above portion of the witness's answer is required by the respondents' counsel, and not by the complainants.) I did not want to leave them as some others had done, but desired to let Bimeler know of my desire and intention to leave, and I requested one of the trustees to go to Bimeler and tell him; he said I had better go to Bimeler myself; I did so, and requested him to give me a small piece of land; he laughed at me; said I had no wife, and wanted to know what

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I would do with land; I then said I would take some money; he asked me how much I wanted; I told him if he would give me $100 I would be satisfied; he laughed at me again, and said that was too much; I said I did not want more than the society was willing to give me; he afterwards brought to me $10, and also a receipt for me to sign, and said, I will give you ten dollars if you will sign this receipt; this receipt was that I had received $10 in full, both temporal and spiritually; I signed the receipt, took the money, and left; while he was conversing with me, after I had made my intention known to him, he did not want me to leave, and said at one time, that if I did not wish to listen to him here, to wait until we got to another world, and then he would talk to me differently. When I was about to leave, a great many women came to me and cried, and one said that the lice would eat me up.

Question by same. Are the members of that society generally intelligent, or are they very ignorant?

Answer. They are generally very ignorant.

Question by same. What is the opinion of some of the members of Bimeler's being more than a human being?

Answer. The opinion of most of the members is, that he is much better than anybody else; some of them think that he has conversation with the spirits of good deceased persons.

Question by same. In whose name is the business of that socie done?

Answer. In Bimeler's name, as long as I was there.

Question by same. Have they trustees in that society?

Answer. Yes.

Question by same. Do the trustees govern Bimeler, or does Bimeler govern and control the trustees?

Answer. Bimeler governs the trustees, or did so as long as I was there; I don't know how they have it now.

Question by same. When Bimeler wants any of the members to sign a paper, what course does he pursue?

Answer. He tells them he wants them to sign it, and tells or explains to them what it is; I knew of none, while I was there, that resisted.

Question by same. Has Bimeler many law suits; and if so, where does he usually get his witnesses?

Answer. He had, while I was there, a good many suits, and generally got his witnesses in Zoar, among the members and others.

Question by same. What words or phrases have they in regard to their telling the truth to persons who do not belong to the Society?

Answer. They regard all those with whom they are at law as their enemies; and it was common among them to say, in regard to talking of their enemies, that a body must not tell the devil the truth, always; and again, "one for all, and all for one."

Question by same. What did they mean by "one for all, and all for one?"

Answer. It meant "what one goes all go."

Question by same. Who gets the money that is made by that society?

Answer. Bimeler.

Question by same. Did you know Johannes Gasely; and if so, was he a good laboring man?

Answer. I knew him; he was a good laboring man.

Question by same. State, if you know, when he built his house at Zoar.

Answer. He built his house in the summer of 1818. It was not finished until the following winter, and then he finished it.

Question by same. What does Bimeler preach in relation to the members being the chosen people of God, and of his being commissioned to lead them?

Answer. He preaches that they are, and holds out the idea that he is commissioned to lead them. It was understood that he held conversation with the spirit of Baberly, who was called the mother of the Separatists, she having been the first person that started their doctrine.

Question by same. Did you read the receipt of which you have spoken, or did Bimeler read it to you?

Answer. Bimeler read it; I did not.

Question by same. Was or was not marriage prohibited at Zoar while you were there?

Answer. It was.

Question by same. Was a person who married then considered a Separatist; or, what was said of those who married?

Answer. It was said that those who marry or get children could not be Separatists.

Question by same. Did any of them violate this rule; if so, state when and how.

Answer. Old Shearing did with his wife's daughter, with whom he got a daughter. He afterwards left the society for a while, and then came back again. One named Guiny, Anna Maria Nuderly, also violated this rule; Mr. Burk, and the woman *who* he has since married, were seen together after midnight in a tannery, for which he was turned out of the church. Bimeler afterwards married.

(All the foregoing examination objected to by respondents.)

Cross examined by Mr. Hance for respondents.

Question by him. Have you resided or been employed at Zoar since you left in 1825?

Answer. I have not.

Question by same. In what you have said in your examination concerning the people and society at Zoar, do you wish to be understood as referring to time prior to your leaving there?

Answer. The most of what I have said refers to time before I left. The matter of Bimeler's marriage occurred since I left.

Question by same. Do you pretend of your own knowledge to know how their affairs have been conducted since you left?

Answer. I do some, and some I don't.

Question by same. Do you of your own knowledge know what duties and powers have been performed and exercised by the trustees of the society for the last twenty years?

Answer. I could not answer for that since I left there.

Question by same. Do you know of your own knowledge what powers have been exercised by Bimeler for the last twenty years?

Answer. I do not; I can only answer from my own knowledge for the time I lived there.

Question by same. Was not the business of the society for several years after its formation, comparatively small, and has it not since been much extended and multiplied?

Answer. For one year, as I have said, there was but very little business done; and since that business has been much extended and multiplied.

Question by same. At, and for some time after the formation of the society, was not Bimeler the most competent business man among the members?

Answer. I think he was.

Question by same. During your residence at Zoar, did not Bimeler hold the office of agent or treasurer of the society?

Answer. He did.

Question by same. Was not the money of the society employed in paying for and improving the joint property?

Answer. It was.

Question by same. So far as you have observed the conduct of Bimeler, did he not manifest a desire to promote the general prosperity of the society?

Answer. Yes.

Question by same. Did they not discourage marriage because of the unfavorable condition in which they were placed, having settled upon a tract of land which was a wilderness?

Answer. No; that was not the reason.

Question by same. Since they have cleared out their land, and furnished themselves with comfortable dwellings, does not marriage obtain among members of the society to as great an extent as among people generally?

Answer. It does of late; but at first it didn't.

Question. *Was* you of age at the time of the formation of the association?

Answer. I was not.

Question by same. Did you become a member before you were of full age?

Answer. No.

Question by same. Whilst the proposition to form a common stock was under consideration, did not the women and aged persons generally encourage it?

Answer. They did.

Question by same. Did not those who favored this proposition quote the example of the primitive Christians in support of it?

Answer. They did.

Question by same. Were there not those who believed that a proper exercise of christian feeling and duty required that this example should be followed?

Answer. I don't know that that was so; but there was something like it. A good deal was said about it.

Question by same. Were not the materials and labor which entered into Johannes Gazely's house prepared and performed by the same persons who were at that time engaged in building other houses in Zoar?

Answer. He hired men to do it.

Question by same. Do you know of his having paid for any labor about that house; if so, to whom, and how much.

Answer. I did not see him pay any money; no more than this, that he hired or got people to work and build the house?

Question by same. *Was* you present when he employed any person to labor at that house?

Answer. I was present when the laborers worked at the house, but was not present when he employed them.

Question by same. Did you ever hear Bimeler claim to have intercourse with deceased persons?

Answer. He hinted upon it in meeting; and when I went home the old woman spoke of it, as having been said by Bimeler, and asked me if I understood it; and then told me what it meant.

Question by same. What did Bimeler say in meeting?

[Answer.] I cannot repeat all that he said on the subject, but the idea imbibed by the members was as above stated. For a long time I did not understand him, and not until explained by the old woman.

Question by same. Was not Bimeler contrasting the Old and New Testament dispensation, and did he not say that wisdom of Christ's teachings surpassed all the wisdom of Solomon?

Answer. Yes; he brought that along with it.

Question by same. Who solemnized the first marriage which took place at Zoar?

Answer. So far as I know, it was Bimeler; the marriages were published by him in meeting, and they went to his house to be married; I did not see him marry them.

Question by same. Is not the system of a community of property, and being subject to the direction of trustees, inconsistent with your ideas of liberty?

Answer. It is not; men may have liberty when thus situated.

Question by same. Have you not been examined as a witness in this cause heretofore; and did you not then testify that you left Zoar because you desired to acquire property for yourself?

Answer. I have been examined as a witness in this case before, and did then so testify, so far as I can recollect.

Question by same. Have not some of your relations lately been engaged in litigation with the Zoar society?

Answer. My brother-in-law has been so engaged.

Question by same. Has it not been said to you, that if this suit should break up the society you would have a right to a portion of the property?

Answer. There has been some talk of it, but I refused it, and do yet; I don't want any of it; I have plenty.

Question by same. When was there such talk, and who was it with?

Answer. There was such talk several years ago, and some of late, by persons who are not interested in this suit.

Re-examined in chief by Mr. Quinn for complainants.

Question by him. What is the value of Mr. Bimeler's house, compared with the other dwelling-houses of the society?

Answer. I think Bimeler's house is worth as much as any fourteen or fifteen of the others.

Question by same. What extent of garden and pleasure walks has he about his house?

Answer. I don't know the extent of it; he has a garden and pleasure walks attached to his house.

Question by same. Is the society an association, in practice, based on equal rights, or is it an association of a master and his slaves?

Answer. There is a little of both in practice by times; I mean at the time I lived there; how it is now, I don't know.

(Re-examination objected to by respondents' counsel.)

MARTIN REILY.

Deposition of Matthew Heilman.

Matthew Heilman, of lawful age, deposes as follows:

Question by Mr. Quinn, counsel for complainants. Were you a member of the Separatists' society at Zoar; and if so, when did you commence with it, and when did you leave it.

Answer. I was; I came there in 1824, and left it about 3½ years ago.

Question by same. Did you know Johannes Goesele, who died in that society; if so, what were his habits of industry and ability to labor?

Answer. I knew him; he was industrious, and was able to do as much work as other men.

Question by same. Did he do as much work as the other members of the society?

Answer. I suppose he did.

Question by same. Who governs and controls that society?

Answer. Jos. M. Bimeler.

Question by same. Have they trustees in that society?

Answer. They have.

Question by same. Do they control and direct Bimeler, or does Bimeler control and direct them?

Question by same. Did not those who favored this proposition quote the example of the primitive Christians in support of it?

Answer. They did.

Question by same. Were there not those who believed that a proper exercise of christian feeling and duty required that this example should be followed?

Answer. I don't know that that was so; but there was something like it. A good deal was said about it.

Question by same. Were not the materials and labor which entered into Johannes Gazely's house prepared and performed by the same persons who were at that time engaged in building other houses in Zoar?

Answer. He hired men to do it.

Question by same. Do you know of his having paid for any labor about that house; if so, to whom, and how much.

Answer. I did not see him pay any money; no more than this, that he hired or got people to work and build the house?

Question by same. *Was* you present when he employed any person to labor at that house?

Answer. I was present when the laborers worked at the house, but was not present when he employed them.

Question by same. Did you ever hear Bimeler claim to have intercourse with deceased persons?

Answer. He hinted upon it in meeting; and when I went home the old woman spoke of it, as having been said by Bimeler, and asked me if I understood it; and then told me what it meant.

Question by same. What did Bimeler say in meeting?

[Answer.] I cannot repeat all that he said on the subject, but the idea imbibed by the members was as above stated. For a long time I did not understand him, and not until explained by the old woman.

Question by same. Was not Bimeler contrasting the Old and New Testament dispensation, and did he not say that wisdom of Christ's teachings surpassed all the wisdom of Solomon?

Answer. Yes; he brought that along with it.

Question by same. Who solemnized the first marriage which took place at Zoar?

Answer. So far as I know, it was Bimeler; the marriages were published by him in meeting, and they went to his house to be married; I did not see him marry them.

Question by same. Is not the system of a community of property, and being subject to the direction of trustees, inconsistent with your ideas of liberty?

Answer. It is not; men may have liberty when thus situated.

Question by same. Have you not been examined as a witness in this cause heretofore; and did you not then testify that you left Zoar because you desired to acquire property for yourself?

Answer. I have been examined as a witness in this case before, and did then so testify, so far as I can recollect.

Question by same. Have not some of your relations lately been engaged in litigation with the Zoar society?

Answer. My brother-in-law has been so engaged.

Question by same. Has it not been said to you, that if this suit should break up the society you would have a right to a portion of the property?

Answer. There has been some talk of it, but I refused it, and do yet; I don't want any of it; I have plenty.

Question by same. When was there such talk, and who was it with?

Answer. There was such talk several years ago, and some of late, by persons who are not interested in this suit.

Re-examined in chief by Mr. Quinn for complainants.

Question by him. What is the value of Mr. Bimeler's house, compared with the other dwelling-houses of the society?

Answer. I think Bimeler's house is worth as much as any fourteen or fifteen of the others.

Question by same. What extent of garden and pleasure walks has he about his house?

Answer. I don't know the extent of it; he has a garden and pleasure walks attached to his house.

Question by same. Is the society an association, in practice, based on equal rights, or is it an association of a master and his slaves?

Answer. There is a little of both in practice by times; I mean at the time I lived there; how it is now, I don't know.

(Re-examination objected to by respondents' counsel.)

MARTIN REILY.

Deposition of Matthew Heilman.

Matthew Heilman, of lawful age, deposes as follows:

Question by Mr. Quinn, counsel for complainants. Were you a member of the Separatists' society at Zoar; and if so, when did you commence with it, and when did you leave it.

Answer. I was; I came there in 1824, and left it about 3½ years ago.

Question by same. Did you know Johannes Goesele, who died in that society; if so, what were his habits of industry and ability to labor?

Answer. I knew him; he was industrious, and was able to do as much work as other men.

Question by same. Did he do as much work as the other members of the society?

Answer. I suppose he did.

Question by same. Who governs and controls that society?

Answer. Jos. M. Bimeler.

Question by same. Have they trustees in that society?

Answer. They have.

Question by same. Do they control and direct Bimeler, or does Bimeler control and direct them?

Answer. Bimeler controls them.

Question by same. What have you heard Bimeler say about his right to control them, and what have you known Bimeler to do?

Answer. I have heard him tell them that they should not do anything except he knew something about it; I have known them to do things contrary to his will, and he was dissatisfied, and they just let it be so.

Question by same. What was their reply when he told them that they should do nothing without letting him know?

Answer. I don't know what they said; I had to go away.

Question by same. Would they dare to do anything against his will, if *they* he did not want it done?

Answer. No, sir.

Question by same. Do you know anything about articles of association at Zoar?

Answer. I know of some.

Question by same. State what you know.

Answer. I have heard some parts of them read; other parts were not read.

Question by same. Who read them, where, and why did he not read the whole of them?

Answer. Christian Weible read them in a public meeting-house by candle light; he looked around and saw some of the members getting sleepy, and he said it was hardly worth while to read the whole.

Question by same. Who keeps the articles?

Answer. J. M. Bimeler.

Question by same. Does he pay any regard to the articles, or does he govern the society according to his own will?

Answer. He governs a great part according to his own will.

Question by same. Does he not keep the articles more as a buggaboo, with which to scare other members, than as a rule of government? (Objected to, and not insisted on.)

Answer.

Question by same. Do you know anything about their elections at Zoar?

Answer. I do.

Question by same. Do the members vote according to their own free will, or according to the directions of Bimeler?

Answer. They do not vote according to their own free will; the most part of them vote according to Bimeler's directions.

Question by same. If they vote contrary to his wishes, what is done with them?

Answer. I don't know exactly; never saw one abused particularly on that subject.

Question by same. In whose name is the business of the society done?

Answer. In Bimeler's.

Question by same. Have any of the members been driven off?

Answer. Some of them have been.

Question by same. What sayings or words have they at Zoar about telling the truth to those not members of the society?

Answer. They generally say that persons should not always tell the devil the truth.

Question by same. What other sayings have they, when they are called upon to give testimony for Bimeler?

Answer. I don't know of any in particular.

Question by same. Were you ever called upon by Bimeler to swear to an answer in chancery? And if so, state what about it.

Answer. I was; he wanted me to swear to some writings he got up; I refused to do it, and I then went out into my own shop; he then sent Jacob Syfand to me, and got me to the tavern, and wanted me to swear to it; I told them that it was something that I never took any account of; I could not and would not swear to it; then Bimeler said, if there is anything in it going against my conscience, or others, to throw it upon him, (Bimeler;) he then raised his fist and said, "I tell you fellows not to *brake* open my mouth;" I then signed it, for I was baffled around so, and it was almost night, that I was compelled to sign it.

Question by same. What did you leave the society for?

Answer. On account of being compelled to sign those papers.

Question by same. Who receives all the money of the society?

Answer. Bimeler.

Question by same. Do you know what he does with it? If so, state; and state, also, whether he ever accounts to the society for it?

Answer. I don't know what he does with the money; he never accounts for it to my knowledge.

Question by same. Do you know of Bimeler's having any bastard children in the society?

Answer. There is one in house, which was begotten in his house, but I don't know whether it is his child.

Question by same. What is the prevailing opinion in the society as to the paternity of that child?

Answer. I have heard a great many say that they thought Bimeler was the father of it.

Question by same. How does Bimeler treat it?

Answer. He keeps it in his house, and treats it well, and rides it about every now and then in his carriage.

Question by same. How did he treat its mother while she was pregnant, and afterwards?

Answer. She was not abused that I know of.

Question by same. Did she continue to live with Bimeler after she had the child?

Answer. She did.

Question by same. Who of the members in the society does the child most favor in appearance?

Answer. I think it favors Bimeler a little.

Question by same. How are other single females used who have been unfortunate in that way?

Answer. There was another one in Bimeler's house who had a child, and was put out of the house pretty quick; there were some others who were scolded by the members.

Question by same. Have you ever heard Bimeler say anything about the paternity of the child?

Answer. I heard him say in the meeting house that [if] no other one would be the father of this child, he would be its father.

Question by same. Do you know who owns the legal title to all the property at Zoar?

Answer. Yes, sir; it is Bimeler.

Question by same. Do you know what is the annual income of the society?

Answer. No, sir. (The foregoing is objected to by respondents.)

Cross examined by respondents' counsel.

Question by him. What were the papers which you say you were compelled to sign?

Answer. They were answers to the bills in chancery, filed by Weishaar and Schanty against the society.

Question by same. Who prepared those answers?

Answer. Mr. Hance took the answers there, I think; but I don't know who prepared or wrote them.

Question by same. Were not John Patton and J. C. Hance present on the occasion when you say you were compelled to sign those answers?

Answer. Yes, sir.

Question by same. Were not all the defendants in those cases, numbering about 20, also present?

Answer. They *was*.

Question by same. In what capacity did John Patton act on that occasion?

Answer. As a justice of the peace.

Question by same. Did not J. C. Hance, as counsel for the defendants, on that occasion, tell you that if the answers were in any part incorrect you should say so, and that he would prepare for you under your own direction?

Answer. I don't recollect that you said that; I did not get learning enough to know whether the answers were wrong or right.

Question by same. Were not the answers read by said Hance, and did not Lewis Burk translate the same in your hearing?

Answer. Yes.

Question by same. Did you not then, in common with all the other defendants, say they were right?

Answer. I agreed that the most of these answers *was* right, though I mistrusted the translation.

Question by same. Were not several of the defendants then present sufficiently acquainted with both languages to know whether the translation was correct?

Answer. There were several present who spoke both languages, but whether they could translate I don't know.

Question by same. Did you not swear to the truth of those answers before Patton?

Answer. Yes.

Question by same. Have not several members boarded at Bimeler's house for years, and was not such the case at the time the child was begotten of which you have spoken?

Answer. Yes; there were three boarded there at that time.

Question by same. Were there not also at that time a number of young hired men in the employ of the society at Zoar?

Answer. There were some.

Question by same. Did the mother of the child afterwards marry?

Answer. I heard so.

Question by same. Did she marry a man who had boarded at Bimeler's house at the time of the begetting this child?

Answer. It was Christian Weible.

Question by same. Do you know where the child was begotten?

Answer. I don't know; the girl lived in Bimeler's house.

Question by same. Did not Bimeler's wife reside with him at the time of the birth of this child, and does she not continue to reside with him?

Answer. Yes.

Question by same. Does this child ride in Bimeler's carriage without his wife being along?

Answer. I saw it ride once without Bimeler's wife being along.

Question by same. Have you not often seen it ride with Mrs. Bimeler?

Answer. I have.

Question by same. In what connexion did Bimeler make the remark in meeting about the child of which you have spoken?

Answer. The members were grumbling about the child, that they could not find out who it belonged to, and that Bimeler made the remark that if no body else would, he would be its father.

Question by same. Is not that child a favorite of Mrs. Bimeler?

Answer. She thinks a good deal of it.

Question by same. Who of the members of the society have you heard express the opinion that Bimeler is the father of that child?

Answer. I heard Mr. Schanty say so; no one else that I can recollect of.

Question by same. Was not Schanty unfriendly to Bimeler?

Answer. That I don't know.

Question by same. When did you hear Schanty express that opinion?

Answer. I don't recollect.

Question by same. Did not Schanty bring suit against Bimeler and others of the society?

Answer. I believe so.

Question by same. Were you ever in Bimeler's house after the time of begetting that child?

Answer. I was.

Question by same. Did you then see the mother of that child?

Answer. I did.

Question by same. Do you of your own knowledge know that she was not admonished for her conduct?

Answer. I do not.

Question by same. How do you know that Bimeler controls the trustees?

Answer. Why *the* generally [are] there every Sunday evening at his house; then he tells them what the work shall be.

Question by same. Were you ever present at one of those meetings between them and Bimeler on Sunday evening?

Answer. I was, several times; but what he ordered them to do, I don't recollect any more.

Question by same. Do not the trustees meet daily?

Answer. Yes; three times a day, at the blowing of the horn.

Question by same. Do not the trustees assign to the persons in the employ of the seciety, their several duties?

Answer. Yes.

Question by same. Do they not also assign the duties of the several members?

Answer. Yes, except Bimeler.

Question by same. Did Bimeler ever tell you how you should vote at the elections?

Answer. No.

Question by same. Did you ever hear him tell any one how to vote?

Answer. Not to my knowledge.

Question by same. Has not the money of the society been employed in paying for and improving the property of the society, and in carrying [on] its various branches of business?

Answer. I do not know whether it was used for that altogether.

Question by same. Has not the society had under its employ a large number of men and women, other than members?

Answer. Yes, sir.

Question by same. Has not the society been constantly engaged in improving its property?

Answer. Yes.

Question by same. Are not many of its members now at Zoar old and infirm?

Answer. Many of them are.

Question by same. Did you bring a suit against the society?

Answer. I did.

Question by same. Did you not remain at Zoar for a considerable time after the commencement of your suit?

Answer. A very short time.

Question by same. Whilst you remained there, did you not receive your support from the society?

Answer. I did.

Question by same. Are you not still a member of the society?

Answer. I think I am.

Question by same. Did you not leave Zoar of your own accord?

Answer. I suppose I could have staid if I had been a mind to, but they used me in such a way that I did not want to stay.

Question by same. Do you not expect that this suit will break up the society, and that you will then get a share of the property?

Answer. I do.

Question by same. Have you not been informed that such will probably be the case?

Answer. I have.

Question by same. Has it not been taught among those who have left the society, that their chance of getting a part of the property depends upon the event of this suit?

Answer. I have not heard so.

Question by same. What time in the year 1824 did you come to Zoar?

Answer. In the spring.

Question by same. What was then your age?

Answer. Sixteen.

Question by same. How old were you when you became a member of the society?

Answer. I don't know exactly; I was over age.

Re-examined in chief by complainants' counsel.

Question by him. What was there in your answer to Schanty's bill to which you did not wish to swear?

Answer. I think it was about his labor not being worth his support.

Question by same. What have you heard said in the society about the trustees going to Mr. Bimeler's house to ascertain who was the father of the child spoken of?

Answer. I heard that they went and met Bimeler on the steps, and inquired about it, and Bimeler said, "she wont tell me, and how do you suppose she will tell you?"

Question by same. Was any further inquiry made to your knowledge by the trustees as to who was the father of the child?

Answer. Not to my knowledge.

Question by same. How old was the child when Weible married its mother?

Answer. About 6 or 7 years.

Question by same. Has there been any change in the government

of the society; or does Bimeler govern now as he did when you first came to Zoar?

Answer. I think there has been some change; I don't think he governs altogether as he used to govern.

(The foregoing excepted to by respondents' counsel.)

MATTHEW HEILMAN.

Deposition of John Gaesely.

John Gaesely, of lawful age, deposes as follows:

Question by Mr. Quinn, complainants' counsel. State where you now reside, and how long you resided at Zoar?

Answer. I now reside at Canal Dover. I resided at Zoar twenty-eight years and over; I came there in the spring of 1818, and left in 1845.

Question by same. Are you acquainted with the society of Separatists at Zoar?

Answer. Yes.

Question by same. Who governs and controls that society?

Answer. Bimeler.

Question by same. What change, if any, was there in his government during the time you resided there?

Answer. I don't know of much change; he was a little more lenient at first, but at last did as he pleased.

Question by same. Who governs the trustees of that society?

Answer. Bimeler.

Question by same. Do you know when Johannes Gaesely built his house, and who paid for building it?

Answer. Yes, it was built in 1818; he built it; I did not see any money paid.

Question by same. How was he considered in circumstances when compared with the rest of the members?

Answer. He was considered one of the wealthy members.

Question by same. Has that society separated any husbands and wives; and if so, state its doings and operations in that respect.

Answer. It has. In the first years of the society some men left, and their wives would not; and I heard the women say that Bimeler advised and said what they should do: that they should go to the Shakers, and stay there for some time, and then to come back again, and they did so; those women are yet in the society; the society has tried to separate others.

Question by same. What is the understanding among the members about their right to cheat and defraud those who are not members of the society?

Answer. Some of them complain about it.

Question by same. What do they mean by their proverb, that they need not always tell the devil the truth?

Answer. It means to cover up their mean doings.

Question by same. Who is meant by the "devil?"

Answer. It means that it is not always necessary to tell the truth.

Question by same. Have you ever heard the expression there, "One for all, and all for one;" and if so, what is meant by it?

Answer. I have heard it, but can't recollect what is meant by it.

Question by same. Have you ever seen that bastard child that is living with Bimeler, and who is understood to be its father?

Answer. I have; Bimeler is understood to be its father.

Question by same. Who does it look like?

Answer. It favors its mother; I can't say that it favors Bimeler much.

Question by same. While you were there, were you ever compelled to swear to an answer in chancery against your will? If so, state what about it.

Answer. I was; they wanted me to swear to what I didn't know. Ackerman and Burk, trustees, then told me to go and tell what I did know. I went and *sworn* with the rest altogether, and then I did not know any thing about it, what I had sworn to. Afterwards, when the testimony was taken, that is, when the answers were written, they wanted me to sign them, and I refused a couple of times, and said I didn't know any thing about it; and then by talking a long time—Bimeler and Hance were talking all the time—Bimeler said that if there was any thing wrong he would take it upon his conscience. I still refused to sign, and at last Bimeler got up angry, and told us not to break open his mouth; then of course I got a little scared, and signed it.

Question by same. In whose name is the business of the society done?

Answer. It is all done in Bimeler's name.

(Objected to generally by complainants' counsel.)

Cross examined by J. C. Hance, respondents' counsel.

Question by him. What was your age when you came to Zoar; did you become a member; and if so, at what age?

Answer. About 14 when I came; I became a member after I was 21 years old.

Question by same. For how long a time before you left the society *was* you disaffected?

Answer. A good many years.

Question by same. *Has* there not always been trustees in the society, and have not those trustees each had charge and superintendence of different departments of the business of the society?

Answer. There have always been trustees, who have thus had charge and superintendence after they had got instructions from Bimeler.

Question by same. Did you ever hear Bimeler instruct the trustees?

Answer. I did not exactly; but I heard the trustees say that Bimeler had said that they have to do so and so—Bimeler wants it.

Question by same. Who of the trustees did you hear say so?

Answer. I heard a good many from beginning to end; if there was any dispute about the way of doing business, the trustees would say, Bimeler wants it done so. If any of the members wanted any thing, and called on the trustees, the trustees would say, we will see Bimeler about it?

Question by same. Who have you heard say that Bimeler was the father of the child of which you have spoken?

Answer. I don't recollect.

Question by same. Before whom did you swear or affirm to the answers of which you have spoken?

Answer. Before John Patton.

Question by same. Did you sign the answers before or after you were sworn?

Answer. Afterwards; I may be mistaken; I don't [know.]

Question by same. Did you bring suit against the society?

Answer. Yes.

Question by same. Do you not expect that this suit will break up the society, and that then you will get a portion of its property?

Answer. I expect it will; and I hope it will break up the society; and if it does, I expect to get my proportion of the property.

Question by same. Do you not look upon this suit as your last chance?

Answer. I think there *is* some more ways and chances yet.

JOHN GASELY.

Deposition of Anna M. Gasely.

Anna Maria Gasely, of lawful age, deposes as follows:

Question by Mr. Quinn, complainants' counsel. State your age and your residence, and your husband's name.

Answer. I am 43 years old; live in the town of Dover; my husband's name is John Gasely, whose deposition is taken above.

Question by same. Were you a member of the Separatists' society at Zoar; and if so, how long did you reside there?

Answer. I was a member, and lived there 28 years.

Question by same. How many children have you; and what are their ages?

Answer. Four; one is aged 19, next 16, next 7, and the other 2 years old.

Question by same. How long is it since you left the society?

Answer. It is now 4 years.

Question by same. When they expelled your husband from the society, what proposition did they make about keeping you?

Answer. They sent *her* a letter saying, that if *she* wanted to remain, or returned thereafter, (that is they would support *her* if she remained or returned to Zoar,) that they would support *her* and *her* children; I was then still at Zoar, but they had refused to give *her* any thing to eat.

Question by same. What was done with that letter after they presented it to you?

Answer. I think I kept it, though I don't recollect; they wrote me three letters; the first I answered.

Question by same. What was done with the second letter?

Answer. It was brought by a storekeeper, and was taken away by him again.

Question by same. What argument was made use of to induce you to stay?

Answer. They wrote that I should regard my duty to the society as greater than those to my husband.

Question by same. Why did you leave the society?

Answer. I left because we, my husband, myself, and my children, were driven out of our house by the sheriff.

Question by same. Have they given you any support, or any part of their property since you left?

Answer. No; not a cent.

Question by same. Has the society separated any husbands and wives?

Answer. Yes, 4 or 5.

Question by same. Did you ever sign any articles or papers at Zoar?

Answer. I did; when I was of age I was told to put my name to them; they were not read to me; Schanty told me to sign them.

Question by same. What course does Bimeler pursue when he wants persons to sign papers?

Answer. Generally in the evening schools they most come to sign them; but I was not present when the most of them were signed.

Question by same. How is your husband's health; is he able to labor, or is he infirm?

Answer. He is not half the time able to work since he got a fall from a roof in Zoar about 7 years ago; he is not able to work much; in regard to the letters of which I have spoken above, I will further say, I had asked the society for support, and they told me that there was no support out of Zoar.

(The foregoing objected to by respondents' counsel.)

Cross examined by Mr. Hance, respondents' counsel.

Question by him. Was it the first letter that you received from the trustees in which they said, that if you wished to remain, they would support you and your children?

Answer. It was; and in the same letter they wrote that I should consider my duties to the society as greater than to my husband.

Question by same. Did you keep this letter?

Answer. I don't know; I read it several times; but don't know what has become of it?

Question by same. Was it written both in German and English?

Answer. No; it was written in German only.

Question by same. Were the letters all different?

Answer. They were.

Question by same. In the letter in which the trustees said they would support you and your children if you desired to remain, was it not expressly said that your duties to your husband were paramount to your duties to the society?

Answer. It was not; the idea conveyed was that my duties to the society were the greatest.

Question by same. You say the storekeeper brought one letter, who brought the others?

Answer. A little boy named Christian brought the second; and the last was brought by Burk and Hance.

Question by same. What were the contents of the letter brought by Burk and Hance?

Answer. I don't know all the contents, but it was repeated in it that no support would be given out of Zoar; this letter was both in German and English; the other letters were in German only.

Question by same. Did not one of the letters expressly inform you that the trustees would not advise the course you should pursue?

Answer. It did.

Question by same. Did not the society have a lawsuit with your husband about the possession of a house?

Answer. Yes.

Question by same. Was it not after this lawsuit that the sheriff put [you] out of the house?

Answer. Yes.

Question by same. Did not you and your husband bring suit against the society?

Answer. Yes.

Question by same. Have you not been told that this suit would probably break up the society, and that you would then get your share of the property?

Answer. I have not been told that the society would be broken up; but I should like to have my share.

Question by same. Do you not expect this suit will aid you to get a share?

Answer. I do.

ANNA MARIA GASELY.

Deposition of Jacob Munk.

Jacob Munk, of lawful age, deposes as follows:

Question by Mr. Quinn, counsel for complainants. State if you are acquainted with Adam Mann, Anna Maria Mann, John Jacob Mann, Maria Barbara Mann, children of Maria Barbara Mann, deceased?

Answer. I was; I went to school with them.

Question by same. Where do they reside?

Answer. John Adam died since this suit was commenced, and the others live in Boll, Germany.

Question by same. *Was* you acquainted with their mother, (Maria Barbara;) and if so, state whose daughter she was.

Answer. I was; it was said that she was the daughter of Johannes Goesele, who left Germany and came to Zoar before I was born.

Question by same. Did you know their father; and was he married to their mother; and are these children the issue of that marriage?

Answer. I did know their father; he was married to their mother; and they are the issue of that marriage.

Question by same. Do you know what number of hands the Zoar society has employed who are not members of that society?

Answer. I don't know exactly; but I think there is at least a hundred.

Question by same. Have you ever seen this illegitimate child that Bimeler is raising; and if so, who does it resemble in appearance; and what is the general belief as to who is its father?

Answer. I have; I think it looks like Bimeler; and it is said there that Bimeler is its father.

Cross examined by respondents counsel.

Question by him. Who at Zoar have you heard express the opinion that Bimeler is the father of that child?

Answer. I have heard it of more than one; Old Bramy, the boss of the shoemaker's shop, was one; Eli Lack was another; Martin Ronesenberger was another; and it is a general saying among themselves, though they dare not say it openly.

Question by same. Are not the children of the marriage of which you have spoken older than yourself, and how do you know of the marriage of the parents?

Answer. One of them is; I know of their parents' marriage because the preacher where they lived and had children, kept a book or record of marriages; and I know that no man could live there and raise children unless it was known that they were married; I never saw the entry of the marriage of these parents.

JOHN JACOB MUNK.

Deposition of Dennis Boren.

Dennis Boren, of lawful age, deposes as follows:

Question by Mr. Quinn, complainants' counsel. Are you acquainted with the Separatists' society at Zoar?

Answer. Yes; I lived among them about a year or fourteen months.

Question by same. What can you say as to the freedom enjoyed by its members?

Answer. As far as I understand the nature of the society I should not consider it an institution of freedom.

Question by same. Who governs and directs it?

Answer. So far as I have learned it is the head governor, Mr. Bimeler, and the under officers.

Question by same. Would you consider it a democratical institution, or an institution of a master and his slaves?

Answer. I would not consider it democratic, but as near an institution of a master and his slaves as I can get to it.

Question by same. Do you know of that society's issuing paper money?

Answer. I know of its having issued what is called "shinplasters" as high as $1 in a note; how much of it I don't know.

Cross examined by respondents' counsel.

Question by him. When and in what capacity did you reside at Zoar?

Answer. It was 10 or 11 years ago; I worked then as a mill-wright.

Question by same. In whose employ *was* you?

Answer. In Francis Konch's.

Question by same. At what building or piece of work were you employed?

Answer. At the mill on the canal.

Question by same. By way of the road, what is the distance from that mill to Zoar?

Answer. About a quarter of a mile, or a little further.

Question by same. Where did you board, at the mill [or] in the village of Zoar?

Answer. In a tavern kept at the mill.

Question by same. Where did Bimeler, the trustees, and a majority of the members of the society board; and where were they employed?

Answer. In the village I suppose they boarded; Bimeler was the most of the time at his house; the trustees were attending to their business so far as I know; one or two of them, (I think,) were back and forth to the mill several times; the members were employed all about.

Question by same. What were the powers of the trustees?

Answer. I don't know, I never inquired.

Question by same. Who assigned to the members and hired men their several employments?

Answer. I don't know; I suppose some of the officers under Mr. Bimeler. (The supposition of the witness's answer is objected to by respondents' counsel, the same having been written at the request of complainants' counsel.)

Question by same. Do you know that the trustees act under the direction of Mr. Bimeler?

Answer. I do not, except what I heard.

Question by same. State what acts of government over the society you know of your own knowledge Bimeler to have exercised?

Answer. I don't know of any.

Question by same. Do you of your own knowledge know who governs the society?

Answer. I do not, more than I have heard.

Question by same. Is the opinion which you have expressed that the society is an institution of a master and his slaves founded upon facts within your own knowledge or upon report?

Answer. It is founded upon what I have seen.

Question by same. State what you have seen that has induced you to form that opinion.

Answer. I don't know that I can name more than one at present, that is, I saw one man on the road a short distance from Zoar, who was driving a Zoar team, and he asked me to treat him, it being a rainy, drizzly day, and said he had no money and was not allowed to have any at Zoar, and so I treated him; this is about all that I can state.

Re-examined in chief by complainants' counsel.

Question by him. Have you ever seen Bimeler riding about; and how does he ride?

Answer. I have; he rides in a carriage with two horses.

Question by same. How do the rest ride?

Answer. I never saw them travel any other way than on foot, except *that* Mr. Burk and one or two others when going to court as witnesses.

Question by same. Have you ever seen Bimeler labor?

Answer. No.

Question by same. Are the other members kept at constant labor?

Answer. Yes.

(The above examination excepted to by respondents' counsel.)

DENNIS BOREN.

Deposition of F. D. McMeal.

Felix D. McMeal, of lawful age, deposes as follows:

Question by Mr. Quinn, counsel for complainants. Have you any acquaintance with the Separatist society at Zoar?

Answer. I have known them as a society for about twenty years, but am not personally acquainted with their internal policy.

Question by same. Do you know any thing about their manner of trading and giving orders on their store to laboring men?

Answer. When I have attended (as a physician) upon persons who were dealing and laboring with the society, they gave me orders on the society's store; and when I went to the store they would sometimes ask me, before telling the price of any thing, if I had an order, and when I told them I had, they charged from 8 to 10 per cent. more for goods than their cash price.

Question by same. What is the comparative style in which Bimeler lives when compared with that of other members?

Answer. The external appearances of his style are superior to the other members; I know nothing of the internal affairs of his house; I think it would take 8 or 10 of the other resident houses to make equal value of that in which Bimeler lives.

F. D. McMEAL.

THE STATE OF OHIO,
Tuscarawas county, ss.

I do certify, that the above named John George Boehringer, Jacob Siebold, Martin Reily, Matthew Heilman, John Goesely, Anna Maria Goesely, Jacob Monk, Dennis Boren, and Felix D. McMeal were, before deposing as aforesaid, by me sworn or affirmed in the above entitled case to testify the truth, the whole truth, and nothing but the truth, and that the depositions by them respectively subscribed aforesaid were taken and reduced to writing by me at the time and places specified in the notice hereto attached.

Given under my hand and seal this 16th day of April, A. D. 1849.

SEYMOUR BELDEN, [SEAL.]
Commissioner in chancery.

TUSCARAWAS COUNTY, OHIO.

United States circuit court, for the district of Ohio.

JOHN GEORGE GOESELE et al.
vs.
JOSEPH M. BIMELER et al. } In chancery.

The defendants will take notice, that depositions in this suit will be taken at the poor house of Tuscarawas county, Ohio, on Tuesday, the 17th of April, 1849, between the hours of 6 a. m. and 6 p. m. of said day, and said taking continued from day to day till all are taken.

DAVID QUINN,
Solicitor for complainants.

Received notice and waive proof of the official character of the officer, &c., April 14th, 1849.

LEWIS F. BIRK.

Depositions of witnesses taken in a cause pending in the circuit court of the United States, for the district of Ohio, (in chancery,) wherein John George Goesele and others are complainants, and Joseph M. Bimeler and others are respondents, and taken at the instance of said complainants.

Deposition of C. Weishaar.

Christian Weishaar, of lawful age, deposes as follows:

Question by Mr. Quinn, counsel for complainants. State your age, residence, and occupation.

Answer. I am 72 years old on the 12th of May next; I live in the poor house in Tuscarawas county; I work at trimming trees and such work as they set me at.

Question by same. Where does John George Schauty reside?

Answer. At the poor house also.

Question by same. Were you a member of the Separatists' society at Zoar, and how long?

Answer. I was about 20 or 21 years, and resided there about 23 years.

Question by same Who governs and controls that society?

Answer. I know of no one but Bimeler; the chief direction is given by him.

Question by same. State the extent of his control, and whether or not the trustees are controlled by him.

Answer. His control is over every thing; the trustees are controlled by him.

Question by same. Are those called "trustees" trustees in reality, or are they instruments merely of Bimeler's will?

Answer. They are only trustees in name. What Bimeler commands them they must do.

Question by same. State whether or not you were a trustee, and how far you were under Bimeler's control.

Answer. I was a director before trustees were created, but it was the same office of the present trustees. I was then obliged to do what Bimeler told me.

State by same. State any particular instance in which you failed to comply with Bimeler's wishes, and what were the consequences.

Answer. On one occasion, when I was director, Bimeler ordered me to plough a certain piece of land, against which I remonstrated, the ground being too dry; Bimeler insisted, and I obeyed, and went to the field with 6 men; commenced ploughing, but was unable, owing to the dryness of the ground, to accomplish any thing, and about noon quit and returned. When I got to Bimeler's house in the evening, where the trustees have to meet every evening and morning to receive their orders, for nothing can be done without his will, I was abused by several members for not having done as Bimeler had ordered me. Bimeler commenced abusing me, and then others followed. I then left or resigned my directorship, and took up my axe to work under other directors.

Question by same. Were either you or Bimeler raised as farmers; if so, which of you, and what was the other raised to?

Answer. I was raised a farmer; Bimeler was raised a weaver?

Question by same. Have they articles of association in that society?

Answer. Yes.

Question by same. What regard does Bimeler pay to them when they conflict with his desires?

Answer. I think he has no respect for the articles. He acts according to his own will. This much he regards the articles, if the members trespass upon them, he enforces them to punish them. But for himself he pays no regard to the articles.

Question by same. What portion of the society is old women, and what portion old men?

Answer. I don't know how it is at present. I have been away upwards of 6 years.

Question by same. Have not many of the men, at various times, been expelled from the society? (Objected to by respondents.)

Answer. A number of them have left; I don't know of any that have been expelled.

Question by same. What have you heard Bimeler preach in reference to the obedience due to him from the members?

Answer. I have heard him in preaching say that they owed to him unqualified obedience, and thereupon I ceased to attend his meetings.

Question by same. Was that preaching in accordance with the religion and agreement under which they were associated?

Answer. It was contrary to their religion and agreement.

Question by same. Did you attempt to advise Bimeler of his error; if so, what was the consequence?

Answer. I did so advise him in writing, and the consequence was that the trustees received orders from Bimeler to stop me in my work.

Question by same. When you appeared the next morning to have your work assigned you, what then occurred?

Answer. The trustees forbid him to work.

Question by same. *Was* ever you abused by the old women in consequence of your difference with Bimeler; and if so, where?

Answer. I was abused by 3 old women opposite Bimeler's house, while Bimeler was looking out of his window at them.

Question by same. Do you know any thing about the income of that society?

Answer. I don't; it was never published, though the articles called for it. Bimeler is "all in all."

Question by same. Do you know what Bimeler does with the money?

Answer. I don't; I think he does as Napoleon has done; the money goes in all the world.

Question by same. How long did Bimeler live with his wife before he was married to her?

Answer. About 30 years; 10 years in Germany, and the balance of time here.

Question by same. Had not Bimeler another wife living in Germany at the time he came to America, and for a long time after?

Answer. I don't know whether she was living; he had children; he has had no children by his present wife, unless since I left Zoar.

Question by same. When persons are married in that society, whose consent has first to be obtained?

Answer. Bimeler's; if he is willing, they marry; if not, they dare not, as far as I know.

Question by same. If the members had their own free will, would they keep their in common as it now is, or would the[y] divide it?

Answer. I think a majority would be in favor of dividing it.

Question by same. Was the woman who had the illegitimate child at Bimeler's house treated as other women were, who had had illegitimate children?

Answer. She was treated better than all the women, both before and after she had the child. She was a leader in singing in the church, and took her place as such within 8 days after the child was born.

Question by same. Is the continuation of that society necessary to the propagation and perpetuation of its religion, or is its continuance prejudicial to it?

Answer. The continuance of the society is against the true religion of Separatists; that religion has been lost among them through Bimeler.

Question by same. What is the real object at Zoar; is it religion, or to make money?

Answer. There is no question about religion; its object is to make money, and every thing is so arranged. (The foregoing testimony objected to by respondents.)

Cross examined by Mr. Hance for respondents.

Question by respondents' counsel. How long since you left Zoar?

Answer. About 6 years and three months.

Question by same. About how long of that time have you been engaged in litigation with Bimeler and others of the society?

Answer. All the time.

Question by same. Are you not a party to this suit?

Answer. Yes.

Question by same. For the success of which party do you feel the most interest?

Answer. The complainants.

Question by same. Do you not expect that the complainants will be successful in this suit, that the property of the society will thereby be divided, and that you will get a part of it?

Answer. I have not considered that matter; but if it is, I shall expect my part, if the Almighty gives it to me, for I have expended the best of my life in building up the society, and in accumulating its property.

Question by same. Have you not been told that if the complainants succeed you will get a part of the property?

Answer. I have not.

Question by same. When you *was* about to leave Zoar, did not one of the trustees request you to remain, and say to you that you should there be provided for in sickness and in health, and labor or not, according to your own pleasure?

Answer. When I was on the wagon about going *of*, Burk, a trustee, came and requested me to remain, but nothing was said about providing for me, nor about my labor.

Question by same. Since you left Zoar, did not Burk inform you, if you needed clothing or other necessaries, you should call for the same at Zoar, and you should be furnished?

Answer. While I was at Massillon, Burk came to me and wanted me to return, and go to Critzinger's, but I was unwilling to return,

as by so doing I would have to worship Bimeler, which I was not willing to do. Burk did tell me that if I needed any thing I should come to Zoar and tell him. He gave me $5 at the time; I asked him whether it was from him or the society; he said it was from both himself and the society. I passed through Zoar afterwards twice, but did not call for any thing.

Question by same. Is there any thing, other than your objection to Bimeler, to prevent you from returning to Zoar?

Answer. That it is not all; my name is struck off from the roll, and should be treated worse.

Question by same. When *was* you director of the society?

Answer. In 1830.

Question by same. Did you hear Bimeler, for the last ten years of your residence at Zoar, give orders to the trustees?

Answer. It may be; I don't recollect.

Question by same. During that period, did not each of the trustees have charge of a department of the business of the society?

Answer. Yes.

Question by same. Has not the money of the society been employed in paying for and improving the joint property of the society?

Answer. Yes; in all probability.

CHRISTIAN WEISHAAR.

Deposition of Augustus Wilhelmi.

Augustus Wilhelmi, of lawful age, deposes as follows:

Question by complainants' counsel. State, if you can, what is the value of the property belonging to the society of Separatists at Zoar?

Answer. Judging from what I have seen and heard, I would say that it is worth from half to a million of dollars; I think over half a million.

Question by same. What is its yearly income?

Answer. I don't think it less than ten thousand dollars, clear of all expenses, and it may be over, though this is only my opinion; I may be mistaken.

Question by same. What business is carried on by that society?

Answer. Farming, manufacturing woollen and linen, flouring, trading in goods, smelting iron in two furnaces, tavern keeping, tanning leather, and some other business.

Question by same. What have you heard Mr. Burk (one of the trustees) say about Weishaar's being expelled.

Answer. I heard him say that he was expelled from the church, but not from the society.

Question by same. Do you know who governs and directs the society?

Answer. It is generally admitted that Bimeler does.

Question by same. What is the character of the members, generally, for intelligence?

Answer. With some exceptions I hold them, as a mass, as rather ignorant.

Question by same. What kind of labor is done in the society, and what part do the females take in that labor?

Answer. There is a variety of labor done; the females labor in the fields with the men, especially in harvest time; I don't know that I have seen them at any other time.

Cross examined by respondents' counsel.

Question by him. Do you know what has been the amount or result of any branch of business carried on by the society during any period?

Answer. I do not; I have given my opinion on this subject from appearance of things there.

Question by same. Do you know personally of Bimeler's governing the society?

Answer. I do not.

Question by same. When Burk spoke of Weishaar's expulsion from the church, did he not also say that Weishaar might have remained and been supported there?

Answer. He did.

Question by same. Is it not customary for females, who have emigrated from Germany to this country, to work in the fields during harvest?

Answer. It is in the old country, and it is followed to some extent here.

Re-examined in chief

Question by Mr. Quinn, for complainants. Is it not universally conceded in this country that Bimeler governs and controls that society; or what is the opinion?

Answer. It is the prevailing report. A. WILHELMI.

THE STATE OF OHIO, *Tuscarawas county, ss.*

I do certify, that the above named Christian Weishaar and Augustus Wilhelmi were by me first duly sworn or affirmed to testify, in the above entitled cause, the truth, the whole truth, and nothing but the truth; and that the foregoing depositions, by them respectively subscribed, were reduced to writing by me, and taken at the time and place specified in the notice hereto attached.

Given under my hand and seal this 17th day of April, A. D. 1849.

SEYMOUR BELDEN, [SEAL.]
Comm'r in chancery, Tus. co., Ohio.

United States circuit court, for the district of Ohio.

JOHN GEORGE GOESELE et al. vs. JOSEPH M. BIMELER et als. } In chancery.

The defendants will take notice, that depositions in this cause will

be taken at the office of John Voglesaug, esq., in Columbiana, Columbiana county, Ohio, on Monday, the 14th day of May, 1849, between the hours of 6 a. m. and 6 p. m. of said day, and said taking continued, from day to day, till all are taken.

DAVID QUINN,
Sol'r for complainant.

Rec'd a copy, and waive proof of the official character of the officer taking such depositions. April 18th, 1849.

LEWIS F. BIRK.

Depositions of witnesses taken in a cause pending in the United States circuit court for the district of Ohio, and upon the chancery side of said court, wherein John George Goesele et al. are plaintiffs, and Joseph M. Bimeler et als. are defendants, and for said plaintiffs, in pursuance of the notice hereto attached, and at the time and place therein mentioned. The complainants or plaintiffs were present by Th. Umbstaetter, esq., attorney at law, of New Lisbon, Columbiana county, Ohio; and the respondents were present by Lewis F. Birk, one of the respondents, of Zoar, Tuscarawas county, Ohio.

Deposition of J. G. Banghoff.

John G. Banghoff, of the county of Columbiana, of lawful age, being first duly affirmed by me, as hereafter certified, deposes as follows:

Question by Th. Umbstaetter, esq. State whether, at any time, you became associated with Joseph M. Bimeler et al. in Germany; and if so, for what purpose.

Answer. I did associate, in Germany, with Joseph M. Bimeler and others; there *was* several others associated, to wit, George Aukerman, Johannes Goesele, John George Boehringer, Gotfried Bucker, Philip Sell, and divers others; the object of this association in the beginning was religious.

Question. Did you purchase any property in Germany?

Answer. Yes; in the year eighteen hundred and sixteen the association agreed to purchase an estate, called Brandenberg, which had been advertised in the papers; this all transpired, and the association originated in the kingdom of Wertemberg.

Question. Was any part of the purchase money paid; and if so, how much?

Answer. Yes; the purchase money was sixteen thousand guilders, which was, as I understood from Bimeler and other sources, paid to an administrator who had charge of the estate.

Question. Was the purchase completed, or not?

Answer. No; some difficulty occurred with the Government; that is, there was an objection raised by the Government; the King refused to ratify the sale and purchase.

Question. Was or was not the purchase abandoned; and if so, was any of the purchase money refunded?

Answer. The purchase was abandoned; and, as far as I learned, there was a loss of four thousand guilders sustained by the society; the balance of the purchase money, which was twelve thousand, was refunded.

Question. Who received this twelve thousand guilders?

Answer. I cannot tell definitely; but I understood that several of the members received it from the administrator.

Question. State whether or not defendant, Bimeler, received any or all of the money refunded; and if so, what was the understanding as to how the same should be invested.

Answer. As I understood from Joseph M. Bimeler, he, himself, received the money refunded, not from the administrator, but from the members to whom it was refunded. The understanding was that Bimeler should have the care of the money for a certain time, and that the same was to be invested in lands in America when we should emigrate there.

Question. For whose benefit was the subsequent investment to be made?

Answer. For the use of the society.

Question. In what year did you emigrate to the United States?

Answer. In eighteen hundred and seventeen; defendant, Bimeler, and other members of the society came over at the same time.

Question. What became of the money which had been refunded, as above stated, after you came to America?

Answer. That I cannot tell.

Question. Was or was it not paid out by Bimeler to defray the expenses of the passage of the members of your society to this country?

Answer. I think a part of it was expended for that purpose; there were several of the members poor, who could not pay their passage; the majority of the members were able to pay their own passage, I think. All the members of the society did not, in Germany, advance money to purchase the Brandenberg estate; and a part of those who did received money back for the purpose of paying the expense of their passage.

Question. State whether or not any money was paid to the members in Philadelphia; and if so, by whom it was received.

Answer. There *was* eighteen dollars coming to each member from a committee of the Quakers in Philadelphia; and these sums were received by Joseph M. Bimeler from the committee. The money was intended as a gift to the members of the society.

Question. When and where was the purchase of the land made originally occupied by this society?

Answer. The purchase was made in the year 1817, at Philadelphia, of five thousand five hundred acres of land, consisting of three several tracts, situated in Tuscarawas county, State of Ohio. It was purchased of one Gottfried Haga, and is, in part, the estate now *now* occupied by the society at Zoar.

Question. What was the agreement among the members as to how this land should be divided and held, if at all?

Answer. It was the understanding that Bimeler should purchase the land, inasmuch as the entire society could not go and make the pur-

chase. The understanding was that each member was to have possession of a part of said land, in quantity proportionate to the amount of his property. After the purchase we moved upon the land, and the town of Zoar was laid off in lots, and the remainder, or farming lands, laid out into plantations. Those members who had a desire to go upon *a* plantations did so, and those w io desired to live in town took town lots. It was the understanding, at the time, that each member was to pay for the land he took into his possession, according to the price at which it was originally purchased. Each member then proceeded to clear, improve, and till his proportion of the land; we thus continued for about one year, when it was agreed among the members, especially those who had no means of their own, to unite all our property and labor into a common stock or fund.

Question. How was this proposition received by the defendant, Bimeler?

Answer. I believe that he was the founder of the proposition, and favored it. In the beginning it was supposed that the lands were owned by the society, but at or about the time last referred to, it was ascertained that the title to the land had been made in the name of Bimeler, instead of the name of or to the society.

Question. Did or did not Bimeler encourage the project of uniting the property and labor, on the ground that money could be made faster, and also that such would be a christian measure?

Answer. I did not hear him declare so. I was not present much. I was opposed to it. As soon as I learned that Bimeler was the owner of the land I became dissatisfied. It was my own opinion, at the time, that Bimeler favored the project of a community of interest, so as to prevent the necessity of his rendering an account of the moneys he had received, as well in Germany as in the United States.

Question. State what you may know, if any thing, with regard to articles of association being drawn up in the year 1819.

Answer. In the year 1819 articles of association were drawn up by Bimeler, *who* I heard read them. He proposed that the members should sign them; and it was stated that those who refused to sign could not remain members of the society. The articles were signed by a number, probably the majority, of the society. I, myself, proposed to sign them, upon condition that he, too, should sign them. He promised to sign them, whereupon I signed them; and while I remained there, which was four or five years afterwards, he did not sign them. My own as well as the belief of most members was, that by getting him to sign the articles the land would become our common property, instead of being, as it then was, the property of Bimeler; I mean, that the title to the property would vest in the members, instead of in Bimeler. Bimeler promised at different times to convey the land to us, but omitted doing so.

Question. In what capacity did Joseph M. Bimeler act in the society?

Answer. He was preacher, agent, and treasurer of the society; and

while acting as our agent in regard to the purchase of the land, he took the title thereto to himself, unknown to us, and against our will. When this fact became known, the most of the members, especially those having means, became dissatisfied.

Question. What was the original object of your associating yourselves together?

Answer. Matters of faith, in a religious point of view, and to get homes for ourselves, and to live together as brothers.

Question. Do you know what the articles of association were called by Mr. Bimeler?

Answer. I do; they were called "articles."

Question. Was or was not the society organized at Zoar intended as much for the purpose of enabling its members to improve their temporal affairs, and to make money, as for any other purpose?

Answer. I think so. The land was to be paid for, and hence we had to use exertions to raise the necessary means. At that time most of the members were Separatists.

Question. State whether the mode in which the property was held at Zoar was conformable to the doctrines of that denomination, to wit, the Separatists.

Answer. No, sir; it was not in conformity with the principles of the Separatists; there should be no domineering, no despotism, no master, but a brotherhood; I mean, the title of the property being in Bimeler, as before stated, when it should have been in the members of the society. Separatists, like other denominations, may hold property either in common or separately, and still remain Separatists. Equality is the chief principle of the Separatists' religion; they acknowledge no superior but our Saviour.

Question. Did Joseph M. Bimeler conduct the affairs of the society at Zoar upon those principles, or not, while you were a member thereof?

Answer. No, not at all; he wanted to be master, king, treasurer, priest, and all, and the others should be laborers, without wages.

Question. How long did you remain a member of the society, and under what circumstances did you leave the same?

Answer. I came with the society from Wertemberg in 1817, and remained with them until about the year 1822. I was not satisfied with the principles which Bimeler carried out in the affairs of the society, and for that reason I left. I brought suit, together with several others, who had also left, among whom were Gottfried Bacher, one Platts, Feckenbush, and others, against Bimeler and others, which suit was decided in our favor, and each recovered in proportion to the amount invested by us; my own share amounting to about one thousand dollars, that of Bacher to about $1,400, &c.

Question. State whether or not Joseph M. Bimeler, at the time the articles were to be signed, expressed a wish that all should sign them.

Answer. Yes; such was his wish; it was the understanding that all the members of the society should sign them, but all did not sign.

Question. State whether or not it was the understanding at the time the purchase of the land was made that Bimeler should take the title of the land to all the members?

Answer. Yes; such were his instructions, and he promised to do so, but as it appeared afterwards he took the title, without our knowledge or consent, in his own name.

Question. What effect and influence has the society at Zoar upon its members, more especially how does it affect the relations of husband and wife?

Answer. At the time I was there things stood different from what they do now; the society had adopted the principle of living in a state of celibacy, and for that reason there was a decree against marriage, at least marriages were not authorized or favored. This principle extended itself to those already married, and resulted finally in the separation of several husbands and wives. Among those who left and whose wives would not go with them were Bacher, Gerstenecker, Platz, and Feckenbush.

Question. To whom do you ascribe the cause of these separations?

Answer. To Joseph M. Bimeler.

Question. Were you acquainted with Johannes Goesele; and if so, what was his condition in life?

Answer. I was acquainted with him; as to his age I cannot say, he was tolerably well advanced; he was able to work, and did work; upon reflection I think he was about fifty years old; I think he was one of those who paid for the Brandenberg estate; besides that he had property, how much I cannot tell; he brought money and goods with him from Philadelphia; he built a house at Zoar, which subsequently went into the general fund.

Cross examined by Mr. Burk.

Question. In your statement that you associated with Bimeler and others, in Germany, do you mean to be understood that an union of property had then taken place between the members of said association or society?

Answer. No, sir; I know of no such an association there; it was purely religious.

Question. Was the Brandenberg estate purchased as a common stock?

Answer. It was purchased for the association.

Question. Name the persons, if you know, who contributed to the payment of that property.

Answer. I can name some of them, but not all; it was bought by two or three members; one named Matthias Buchler, one Caspar Felter, I think.

Question. *Was* you present yourself at any one of the transactions; either the purchase of said property, the payment of the purchase

money and the receiving back again of the same, of which you spoke in your examination before?

Answer. I was not present; the only information I have was gotten from Bimeler himself.

Question. Were you ever upon the Brandenberg estate yourself?

Answer. I was; I saw it, but never resided there.

Question. Did Johannes Goesele ever live on said Brandenberg estate?

Answer. I believe not.

Question. State, if you know within your own knowledge, what amount of money Johannes Goesele contributed to the payment of that estate, if any.

Answer. I am not able to tell; the time is too long, and my recollection does not serve me.

Question. Did you ever see him pay one cent for the Brandenberg estate?

Answer. I cannot tell that, he was a prisoner at the same time I was; we were prisoners for about nine years. All that I know is what I heard from Bimeler himself, and the knowledge which I gained in keeping the books and accounts of the society when we emigrated; I am of the opinion, though I cannot now swear positively, that Goesele contributed to the purchase of the Brandenberg estate; it is so long since that my memory does not serve me. I know that he had property, but how much or how it came into the society I do not now know; I was not with the society all the time; I went in their advance to make the necessary preparations for their transportation; for that purpose I visited London, and afterwards met them again. The passage money was furnished by the members before they started, and paid to Bimeler while I was absent.

Question. Was not the moneys and property of those who were imprisoned most generally wasted and spent until they returned again to their homes?

Answer. It went differently; some lost nearly all; others retained their property; members assisted each other.

Question. Was not Johannes Goesele one of those whose property was pretty much wasted?

Answer. I do not know much about his circumstances; he lived in a distant part of the country from me; what I learned of his circumstances I learned while in prison with him.

Question. How do you know that Bimeler received the twelve thousand guilders refunded from the Brandenberg estate?

Answer. I know it, because he told me so himself. We were on rather intimate terms in the beginning.

Question. Was not the money that was in possession of the whole society, at the time of their emigration, very nearly all spent for the passage of the members to this country?

Answer. I cannot say, for I was not present when the passage money was first paid; but at the time of our embarkation, and also while

Bimeler drew all the money he could by any possibility get from the members, under the pretence that he might know how far they could go in the purchase of land. If he learned or discovered that there was money which any of the members had kept back, he would get it by coercive measures; such as threatening that they could not remain members of the society unless they paid it over to him.

Question. How did the members defray the expenses of their journey from Philadelphia to Ohio?

Answer. Some of them had earned some money in Philadelphia, where they had remained about three or four weeks, and others had still a few guilders left. The expenses, while we remained in Philadelphia, were all paid by the committee of the Quakers.

Question. Were not the eighteen dollars of which you spoke intended for that purpose; and did not a great many of the members receive them themselves?

Answer. Those that travelled with Bimeler paid their money to him; those that remained behind may have retained [it] themselves.

Question. Did you see any of the members pay their $18 to Bimeler?

Answer. I did not, because Bimeler received the whole money from the committee, for all those who had signed their names to an agreement to come to Ohio at that time.

Question. Was there not a special agreement made by the members of the society while in Zoar, that all the money that was left of the eighteen dollars should be applied to the payment of the losses sustained at Brandenberg?

Answer. I don't know of any such agreement being made, there was such talk that it should be done, but that Bimeler should first render an account of all the money received by him, but of the contract being made I know nothing.

Question. How much money did you contribute to the payment of the Brandenberg estate?

Answer. Seven hundred guilders.

Question. What were your expenses on your journey to London?

Answer. If I mistake not, the expenses of three of us, though I am not certain, amounted to 300 guilders, going to and returning from London.

Question. When you brought your suit against Bimeler and others, was not this fact particularly in evidence?

Answer. I think so.

Question. Was not Bimeler about the last man who sanctioned the union of property in Zoar?

Answer. So far as I know, he was not, but was one of the first ones who proposed it.

Question. Did he not publicly oppose it?

Answer. No; at one time he pretended as though he would go in in common with the other members; but upon reflection he said that, if he did so, it might cause great difficulties if he were to convey the land

to all, in common, as one or the other might come forward to claim his own share.

Question. Did not Bimeler, at different times, publicly declare that he held that property in trust for the society, and not for his own personal benefit?

Answer. I did not hear him do so.

Question. *Was* you at all times present at the public meeting of the society?

Answer. I was present at the public meetings.

Question. *Was* you present at the purchase of the land in Tuscarawas county, Ohio?

Answer. No, I was not.

Question. When was the agreement made that the lands should be divided among the members, in proportion to their means?

Answer. It was when we first settled at Zoar.

Question. State if you can, from your own knowledge, how many members refused to sign the first articles of association, and also who they were?

Answer. I cannot remember particularly; I recollect one, Mrs. Zimmerman; she happened to be the wife of a neighbor of mine, and therefore I remember her. The others I don't remember.

Question. Did ever J. M. Bimeler claim any more benefit from the property at Zoar than any of the rest of the members?

Answer. I do not know; but I know this, that all the moneys that were realized went into his treasury.

Question. Was not said Bimeler, at that time, elected by the society their treasurer?

Answer. As far as I know, he was treasurer, and he was also, I believe, president and preacher.

Question. Do you know any thing of your own knowledge of the affairs of said society in the last 25 years?

Answer. Of my own knowledge I do not.

Question. What do you know of your own knowledge that Bimeler ever done, whilst you were there, contrary to the principles of that society?

Answer. He was guilty of acts unbecoming a christian, even during the voyage. At Antwerp a pair of scales were purchased, to weigh provisions, &c. He purchased them at fifty guilders, and charged the society with one hundred; the price that was to be paid was one hundred guilders, but the merchant who sold them donated to the society fifty guilders. Bimeler, in my presence, paid only fifty guilders for the scales. Two hogsheads of white *buiscuit* were donated at Antwerp to the society, for distribution among its members; these *buiscuit* Bimeler sold, and pocketed the proceeds. I know several other instances of misconduct on his part, but it would take too long to tell them.

Question. Was marriage forbidden in Zoar while you were there; and if so, by whom?

Answer. It was forbidden by Bimeler; he was opposed to it; and if he opposed any thing, that was the end of it.

Question. Were not several marriages solemnized in Zoar while you were there?

Answer. Several occurred, because there was no other remedy.

Question. Who solemnized those marriages?

Answer. I don't know; I was not present.

Re-examined by Mr. Umbstaetter.

Question. Was Bimeler's act with regard to taking the deed for the land in Tuscarawas county in his own name, contrary to the directions of the society, such an act as you consider contrary to the principles of that society?

Answer. It was misconduct, and contrary to the wishes of the society.

Question. Did he not obtain your own and the names of many other members, to the articles heretofore spoken of by you, solely upon the promise that he, too, would sign them?

Answer. Yes.

Question. Was his promise to sign those articles, and his omission to do so, according to the principles of that society?

Answer. No, the contrary.

Question. What was the house worth that Goesele built?

Answer. Not much; about $20.

Question. During the time that you were with the society, did Bimeler do any act for the purpose of vesting the title to the lands in question into the members of the society, by deed or other conveyance?

Answer. No, not that I know of; I was constantly in favor of his doing so, and his not doing it was one of the principles which led me to withdraw.

Question by Mr. Berk. Had you not commenced your suit in the court of common pleas, and was it not there dismissed at your costs?

Answer. It was commenced in the court of common pleas, and the money which I got was awarded by an arbitration; I do not know how the case got into the Supreme Court. The case was arbitrated while pending in the Supreme Court. And further this deponent saith not.

JOHN G. BANZHOFF.

Deposition of Gottfried Bacher.

Also Gottfried Bacher, of Columbiana county, of lawful age, being first duly affirmed, as hereafter certified, deposes and says:

Question by Mr. Umbstaetter. State whether you were a member of the association spoken of by Mr. Banzhoff; and if so, how long you remained a member thereof?

Answer. I was a member from the year 1816, at the time they united themselves at Brandenberg, in Germany, up to about the year

1819, or thereabouts, though I remained with the society up to the year 1822.

Question. What was the object of the association—a union of property?

Answer. The union of property was to accumulate property and make money; I came with Bimeler and the other members of the society from Wertemberg, in Germany, and landed in Philadelphia, in the year 1817. Joseph M. Bimeler acted as our business man and agent, and had the direction of matters. There *was* five thousand five hundred acres of land purchased by Bimeler from Gottfried Haga, the land being in Tuscarawas county, Ohio.

Question. What directions were given by the members of the society to said Bimeler with regard to the purchase of said land, and the title thereof?

Answer. He was directed to make the purchase for the members of the society, and to have a deed made to the members of the society, so that it might afterwards be divided among the members of the society.

Question. Did he do so?

Answer. No; I understood that he had the title made in his own name. I do not know whether it was an agreement or a deed he had in his own name, but I understood it to be the title to the land, and when this became known, it created considerable discontent. He represented, however, that he could afterwards make a deed to the members and partition or divide the land to them; and upon the strength of this representation, the members became, for the time being, reconciled.

Question. State what you may know [in] regard to certain articles of association which were drawn up by Joseph M. Bimeler, in about the year 1819, their object, &c.?

Answer. I know that, in or about 1819, articles of association were drawn up by said Bimeler, as I think; the object of the articles was to make the property of the different members a joint property, as it related to real and personal property, all property. Private property was to be entirely abolished. As far as I learned, those articles were not signed by Bimeler, nor by several other members, including myself. Bimeler refused to sign the articles, upon the ground, as he stated, that if he signed them the real estate would become common property too, and if any members were to withdraw, they would be entitled to their shares of the land.

Question. Did or did not Bimeler, for the purpose of inducing others to sign those articles, also at first agree to sign them himself along with the other members?

Answer. Yes, I believe he did; I never saw the articles; I never heard of his signing them while I was there.

Question. By what name did you understand that these articles were called?

Answer. Some called them "articles;" my wife told me that *that* they called them the "book of life."

Question. State whether you ever went to sign those articles; and, if so, at whose request, and what took place.

Answer. My wife coaxed me, and wished me to go and sign the articles; and thereupon I went to Bimeler and offered to sign the articles if he would permit it; but he dismissed me, stating that I had better wait awhile yet.

Question. Did he, or did he not, asssign, as a reason why you should delay signing, that you had better wait until you possessed more of the proper spirit to put your name in the book?

Answer. It may be that that was his opinion, though he did not explain to me the reason; at one time Bimeler talked of having the society incorporated, but afterwards remarked that that would not do, that it would have the same effect as if he would sign the articles of association, and he thought that they were incorporated in heaven, and those who had signed the articles had their names entered in the book of life.

Question. State whether you ever sued the society; and, if so, what was the result?

Answer. I sued Bimeler, and other members of the society, and recovered about fourteen hundred dollars, perhaps somewhat less, I think $1340.00; it was in two suits.

Question. Did you get every thing back that you had when you came into the society when you withdrew?

Answer. No, I lost my wife; I gained my suit but lost my wife. She remained with the society; she preferred remaining with Bimeler and the society she had signed as a member.

Question. What effect had the organization of that society generally upon the relation of husband and wife?

Answer. It had the effect to separate husband and wife. I know of several wives separating from their husbands, the former remaining with the society rather than to follow their husbands. In some instances the wives were kept back from their husbands.

Question. Were you acquainted with Johannes Goesele; and, if so, what was his condition?

Answer. I was acquainted with him; he was not poor; he had property left, but how much I cannot tell. He was industrious for a man of his age.

Cross examined by Mr. Burk.

Question. In what year did you leave the society?

Answer. In the year 1822.

Question. *Was* you not always opposed to a union of property in that society?

Answer. I was.

Question. *Was* you ever requested by Bimeler and any other members to unite with them?

Answer. Not except by my wife.

Question. Is not this the general course of Bimeler and the officers of said society, rather to keep persons back from uniting than to coax them?

Answer. No, I think not; they did not keep me back, except when I went at the request of my wife to sign the articles. I never heard of Bimeler's dissuading others from uniting.

Question. Who gave those directions to J. M. Bimeler with regard to the purchase of the land and the taking of the title, and were you present when they were given?

Answer. That I cannot tell definitely; the counsel proceeded first from Bimeler himself to purchase the land for the society. It then became the general understanding among the members that the land should be so purchased as to be divided, but not be left to one alone, or be held in common. Of those that directed that Bimeler should take the title to all the members, I remember my brother-in-law, Auckerman, Banzhoff, Caspar Felter, and almost all others. It was the general desire.

Question. Where was it that this consultation took place?

Answer. In Philadelphia.

Question. Did you ever see either of the instruments of writing by which said land was conveyed?

Answer. No, I never did.

Question. Did ever J. M. Bimeler, in your knowledge, claim any more than official interest in said lands than those in common with the members?

Answer. I do not know; I was not present at all of the public meetings, and hence had not all opportunities to learn what claims he did set up.

Question. Do you then wish to be understood that Bimeler never held out such a claim within your knowledge?

Answer. Whether he claimed it or not I do not know; but he had a better living than the rest, and I presumed he claimed it, or else he would not have had it.

Question. Who did you ever hear Bimeler urge or induce to sign those articles?

Answer. None in my presence; I heard it only from hearsay; I was not present at the meeting when the articles were presented or exhibited for signatures.

Question. What amount of money or property did Johannes Goesele bring into that society?

Answer. I cannot tell definitely.

Question. Did said Goesele, within your knowledge, or in your presence, pay for the building of the house spoken of?

Answer. I don't know, but I think he paid for it out of his own means; those that had no money left could not build.

Question. Was not the hauling of the timber, and the work generally about said house, done by those who were engaged at putting up the other log houses in Zoar?

Answer. That may be; I had moved on the land, and lived there a year and a half, outside of town; hence I did not know fully in what way the houses were built.

Question. What was the amount of purchase money to be paid for the lands purchased by said society?

Answer. I learned that they cost fifteen thousand five hundred dollars, but I am not certain about it.

Question. Was there any of this amount paid when Johannes Goesele died?

Answer. I don't remember when Goesele did die, and cannot say what payment, if any, had been made.

Question. What was the result of your suit against the society in the court of common pleas?

Answer. My suit was connected with that of Banzhoff by some arrangement of the attorneys; he lost his suit, appealed it to the supreme court, and mine had to lay over until his was decided. Another suit which I had against the society for damages, for keeping my wife, I gained in common pleas, and finally got $300 damages.

Question. Do you not expect that if this present suit should be decided against the society, that you would get another share of that property?

Answer. I think not; I have no interest in the event of this suit; I must be content with the settlement already made.

Question. Do you not earnestly desire that the result of this suit may be against the society?

Answer. No, I cannot wish that; I am indifferent how it is decided.

Re-examined by Mr. Umbstaetter.

Question. Was, or was not, Johannes Goesele looked upon as one of the wealthiest members of the society at the time of its organization?

Answer. Yes, he was.

Question. Do you know of his having invested his means in any other way excepting in the society?

Answer. I know of no investment he made other than in the society?

Question. Do you not know the fact, that, at the time the purchase was made in 1817 by Bimeler, he had in his possession a considerable amount of money which had been contributed by different members of the society for the purpose of being invested in lands?

Answer. Yes, certainly he had.

Question. Did you or did you not understand at the time from Bimeler, and other members of the society, that this fund, or a large portion of it, was paid to Gotfried Haga, upon the purchase, as part of the consideration?

Answer. Such was the understanding, but it was not done. He

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bought it on deferred payments. A part of the money that was advanced, and in the hands of Bimeler, was paid out to some of the needy members for provisions; the residue remained in his hands to be applied upon the payments of land as they fell due.

Question. When did Bimeler first become the preacher of the society or association?

Answer. At the time it was proposed that the property should become common he had been preaching about a year. And further this deponent saith not.

GOTTFRIED BACHER.

STATE OF OHIO,
Columbiana county, ss.

I, Jeremiah McLaughlin, a notary public within and for said county, do hereby certify, that John G. Banzhoff and Gottfried Bacher, *was* by me duly affirmed to testify the truth, the whole truth, and nothing but the truth; and that the depositions by them severally subscribed, were reduced to writing by me, and taken at the time and place in the notice specified; and I hereby further certify, that said witnesses having stated upon their affirmations that they could not speak the language of the English sufficiently well to testify therein, that I by the consent of Th. Umbstaetter, esqr., who appeared for the complainants, and Lewis F. Birk, esqr., who appeared for the respondents, called to my assistance an interpreter, to whom I administered an oath to faithfully discharge his duties as such, and who interpreted the questions put, and answers given, as in the foregoing depositions stated.

Witness my signature and seal of office at New Lisbon, this 14th day of May, A. D. 1849.

[SEAL.]

JEREMIAH McLAUGHLIN,
Notary public.

Respondents' depositions.

And also at the same time, to wit, on the hearing of this cause came the said respondents, by their solicitor, and produced and filed in court here the depositions of sundry witnesses taken to be read herein as evidence on behalf of said respondents; which said depositions read as follows, to wit:

United States circuit court, for the 7th circuit, and district of Ohio.

JOHN GEORGE GOESELE et al.
vs.
JOSEPH M. BIMELER et al.
} In chancery.

The plaintiffs, or Mr. Swan & Andrews, their solicitors, will take notice that the defendants will proceed on Monday, the 25th of June, inst., at the hotel in the town of Zoar, county of Tuscarawas, Ohio, to take depositions in the above case between 8 a. m and 8 p. m. of said

day, and continue the taking from day to day, between the same hours, until the whole are taken.

HENRY STANBERY,
Solicitor for defendant.

Columbus, June 14, 1849.

Served on us, June 14, 1849.

SWAN & ANDREWS.

Depositions of witnesses taken in a cause pending in the United States circuit court, for the 7th circuit and district of Ohio, (in chancery,) wherein John George Goesele and others are complainants, and Joseph Bimeler and others are respondents.

Present, for respondents Joseph C. Hance; do. for complainants George W. Chapman.

Deposition of Westly Minor.

Westly Minor, of lawful age, deposes as follows:

Question by Mr. Hance, counsel for respondents. Are you acquainted with the society of Separatists at Zoar?

Answer. I am some.

Question by same. How long have you known the society?

Answer. About twenty years.

Question by same. Where have you resided during that time?

Answer. A part of the time (about seven years) in Zoar, in the employ of the society; and the balance of the time about four miles from Zoar.

Question by same. During the time you resided four miles from Zoar, have you had frequent business transactions with the society?

Answer. I have during every year; have done hauling for them; worked for them; rented land from them, &c.

Question by same. By whom are the affairs of the society managed?

Answer. By three trustees.

Question by same. How are these trustees created?

Answer. By an election by the society.

Question by same. State, if you know, how often these elections are held.

Answer. I don't know.

Question by same. Has Joseph M. Bimeler held any office in the society; if so, what?

Answer. I never knew of his having held any office in the society.

Question by same. With whom did you transact the business which you have had with the society?

Answer. Sometimes with Burk, and sometimes with Aukerman, depending upon the nature of the business.

Question by same. Have you done business with Bimeler?

Answer. No.

Question by same. What is the condition of the members as to equality?

Answer. So far as I know, they are equal.

Question by same. How are, and have been, the members supplied with the means of comfort?

Answer. Very well.

Question by same. During your acquaintance with the society, what has been the condition of the members as to cheerfulness and contentment?

Answer. I have never seen them in any other way than that of cheerfulness and contentment; satisfied with their *fair*.

Question by same. Have they been required to labor severely?

Answer. They have not, to my knowledge.

Question by same. What has been, and is, the state of morals in the society?

Answer. So far as I know it has been and is good; I have seen nothing else.

Question by same. What has been the effect upon the surrounding country, of the business operations carried on by the society?

Answer. It has been a great deal for good.

Question by same. Are you acquainted with [the] lands of the society?

Answer. With the principal part of it.

Question by same. Has the same been improved, with reference to a common use?

Answer. Yes, it has.

Question by same. Could the land be divided among the members, without manifest injury or great loss?

Answer. I think not.

Question by same. How long since you ceased to live at Zoar?

Answer. About twelve years.

Cross examined by Mr. Chapman.

Question by him. During the past year, and at present, what have been and are your transactions with the society at Zoar?

Answer. I have sold them grain, hides, and beef, and traded at their store; I have no business transactions pending with them at present.

Question by same. Have your dealings with the society, during the time mentioned by you in your examination in chief, been very extensive and amounted to a large sum, and in what amount, in your opinion, in the aggregate?

Answer. I suppose they have amounted to five or six thousand dollars.

Question by same. Are there any open or unsettled transactions between you and the society at present?

Answer. I don't know but what there may be, but a mere trifle.

Question by same. Are you indebted to the society, or the society to you?

Answer. The society is indebted to me.

Question by same. During the twenty years of your acquaintance with the society, what persons have transacted business with you in behalf of the society?

Answer. Jacob Aukerman, Lewis Burk, and Christian Weible.

Question by same. Were these persons all acting at the same time, or do you mean to be understood that they were successors to each other?

Answer. That they all acted at the same time.

Question by same. In what capacity were you employed by the Zoarites?

Answer. As a hired hand; part of the time by the month.

Question by same. Have your dealings with the society at Zoar, during the time you have mentioned, been more extensive than with any other person or company besides?

Answer. It has.

Question by same. Have they been profitable to yourself?

Answer. Tolerable; they generally gave me a pretty good chance.

Question by same. During the time you were in the employ of the people at Zoar, as a hired hand, what length of time did you board at the hotel, or in the town at all?

Answer. I suppose about a year all together.

Question by same. Was this continuous or at intervals?

Answer. It was off and on; I was driving team for the society.

Question by same. Where did you board the remaining seven years that you were employed by the society at Zoar?

Answer. At the two furnaces, the nearest of which to Zoar is about $1\frac{1}{2}$ mile, the other about four miles.

Question by same. What proportion of the hands employed during that time at the two furnaces were actually members of the society at Zoar?

Answer. I think there was only one at each furnace; the most of the hands were strangers employed by the society.

Question by same. Were you ever present at an election of trustees by he society?

Answer. I never was.

Question by same. How do you know that they are elected?

Answer. I only know by hearsay; they were called trustees.

Question by same. You have stated, in your examination in chief, that the business operations of the society have had a good effect upon the surrounding country; will you explain what you mean by that?

Answer. By giving men employment. W. MINOIR.

Deposition of I. S. Lappin.

Israel S. Lappin, of lawful age, deposes as follows:

Question by Mr. Hance, counsel for respondents. Are you acquainted with the society of Separatists at Zoar; if so, how long have you been?

Answer. I am, and have been upwards of twenty years.

Question by same. Have you had frequent business transactions with the society?

Answer. I have.

Question by same. By whom or what officers are the affairs of the society conducted?

Answer. So far as I have had business with the society, it has been done with those understood to be trustees of the society.

Question by same. Have you been frequently at Zoar during your acquaintance with the society, and have you from time [to time] observed the members?

Answer. I have.

Question by same. What has been, and is, the condition of the members, as to equality, the means of comfort, and as to cheerfulness and contentment?

Answer. So far as I have been able to take notice, they appear to be upon equality, as much so as they can be; their means of comfort I think have been good—favorable. I have never observed any thing but general cheerfulness and contentment among the members.

Question by same. What has been, and is, the state of morals among the members?

Answer. Good.

Question by same. Do you now hold any public office; if so, what, and how long have you held the same?

Answer. I am now one of the associate judges of the court of common pleas of Tuscarawas, and have been for more than thirteen years.

Question by same. State whether you know of any instance of an indictment against any of the members of the society?

Answer. I do not know of any.

Question by same. Are you acquainted with the lands of the society; if so, have the same been improved with reference to a common use; and could *partion* thereof be made without manifest injury or great loss?

Answer. I am partially acquainted with the lands of the society. I think they have been improved for a common or mutual use of the members; and, from what I know of the land, I think it could not be divided without material loss to the society and its individual members.

Question by same. What has been the effect upon the surrounding country of the business operations carried on by the society?

Answer. It has been good.

Cross examined by Mr. Chapman.

Question by him. Have you ever been present at any of the meetings of the members of the society at Zoar?

Answer. I do not know that I have been present at any of their official meetings.

Question by same. How far do you reside from Zoar?

Answer. About nine miles.

Question by same. How often were you there, on an average, in the course of a year?

Answer. Some eight or ten times a year; may be more, or not quite so much.

Question by same. Of how many actual members is the society composed?

Answer. Not having had access to its list, I am unable to tell.

Question by same. Have you known the number of members at any time heretofore?

Answer. I do not [think] that I ever did know the precise number.

Question by same. Do you now, or did you ever, know about the number?

Answer. From the knowledge that I have I could not say that I know, or ever knew about the number; I have heard rumors on the subject.

Question by same. With how many persons, that you know to be members of the society, are you now acquainted?

Answer. Some eight or ten, at any rate.

Question by same. Be good enough to name those persons.

Answer. Jos. M. Bimeler, Lewis Burk, Christian Weible, George Critzinger, two Mr. Silvans, the gardener, Peter Bimeler, Mr. Aukerman, the carder at the factory, the miller at the mill, and Mike Miller. These persons, I believe, and have no doubt, are members of the society. I am slightly acquainted with a number of others, whom I cannot name.

Question by same. Am I to understand you that you are personally acquainted with these individuals, or that you recognise them by sight?

Answer. I am personally acquainted with a majority of them, and I think that I could recognise all of them by sight.

Question by same. Have you at any time had conversation with any of the persons named by you, or with any person known by you to be a member of the society, in reference to his, her, or their connexion with the society, their condition as members, or their feelings in reference to their condition?

Answer. I have had conversation with several of the members in reference to their being members, and their feelings in reference to their condition.

Question by same. Mention the names of those persons.

Answer. Lewis F. Birk, George Critzinger, I think with Christian Weible.

Question by same. Are those the only persons you can name, with whom you have had such conversation?

Answer. It strikes me that I have had conversation with several others, perhaps Jos. M. Bimeler.

Question by same. What position do those individuals last named occupy in the society?

Answer. So far as I understand the matter, Bimeler is a kind of

general agent; Burk I believe to be one of the trustees, and transacts a good deal of the business of the society; Weible is in the store, and keeps the books there; I believe Critzinger is in the tavern at Zoar.

Question by same. What amount of land do you understand to be in the possession of the society?

Answer. I do not know that I can give the number precisely; I think several thousand acres.

Question by same. Suppose it to be 6,000 acres that the society at Zoar has, what would be the value of that land per acre, exclusive of the mills, furnaces, and town property?

Answer. I suppose it to be worth fifteen dollars per acre, on an average.

Question by same. Suppose these six thousand acres of land to be divided into farms of 120 acres each, in the manner best calculated to preserve the relative value of the whole, so far as timber and water is concerned, what would be the average value per acre of these farms?

Answer. My impression is, that by cutting it up into tracts of 120 acres each, the average value would not exceed $12 per acre.

I. S. LAPPIN.

Deposition of John Bayly.

John Bayly, of lawful age, deposes as follows:

Question by Mr. Hance, counsel for respondents. Are you acquainted with the Society of Separatists at Zoar, and if so, how long have you been?

Answer. I am, and have been between 20 and 25 years.

Question by same. At what distances at different times, during that period, have you resided from Zoar?

Answer. For the last 9 years of the time about 2 miles; for the other part of the time about 4 miles.

Question by same. Throughout the whole time have you been often at Zoar; and have you had frequent business transactions with the Society?

Answer. During the last 9 years I have.

Question by same. By whom, or what officers, are the affairs of the society transacted?

Answer. I have always understood by the trustees of the society. My transactions with the society have been chiefly with Mr. Burk, whom I understood to be one of the trustees.

Question by the same. Have you frequently observed the members when engaged at their ordinary labors; if so, state whether they labor moderately or excessively.

Answer. I have observed *observed* them, and judge that they labor moderately, from what I have seen.

Question by same. What has been and is the condition of the members as to equality, their means of comfort, and as to cheerfulness and contentment?

Answer. I have never seen any inequality; their means of comfort

are good, and so far as I have been acquainted with them, they have always appeared cheerful and contented to me.

Question by same. What has been, and is, the state of morals among the members?

Answer. They are good.

Question by same. What has been the effect of the business operations of the society upon the surrounding country?

Answer. I should think the effect has been good.

Question by same.

Cross examined by Mr. Chapman.

Question by him. You have stated the affairs of the society are managed by trustees; how do you know that fact?

Answer. I just know it by the report around here; I never saw their constitution.

Question by same. You say that your transactions have been had with Burk, as one of the trustees; how do you know he acted in that character?

Answer. I know it from common report.

Question by same. Did he ever, in the course of his transactions, inform you that he was a trustee?

Answer. I cannot now remember that he did.

JOHN BAILEY.

Deposition of D. K. Nixon.

Daniel K. Nixon, of lawful age, deposes as follows:

Question by Mr. Hance, counsel for respondents. Are you acquainted with the Society of Separatists at Zoar; and if so, how long have you been?

Answer. I am and have been, more or less, since 1817, when I was a small boy.

Question by same. At what distance have you resided from Zoar, for the last 10 or 12 years?

Answer. For the last 4 years about $1\frac{1}{4}$; for the last 11 or 12 years before that about 3 miles.

Question by same. Have you been often at Zoar, and had frequent transactions with the society?

Answer. For the last 12 years I have had more or less business with the society every year, and have been frequently at Zoar.

Question by same. By whom, or what officers, are the affairs of the society managed?

Answer. I have always understood by 3 trustees.

Question by same. Have you often seen the members at their ordinary labor; if so, how do they labor?

Answer. I have; they labor moderately.

Question by same. What has been and is the condition of the mem-

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bers as to equality, and also as to the means of comfort, and what as to cheerfulness and contentment?

Answer. I believe it has been with as much equality as could exist in such a community; and as far as my observation would go, I believe they all have the means of comfort; and they appear as cheerful and contented as any people that I am acquainted with.

Question by same. What has been and is the state of morals among the members?

Answer. Good, as far as I have heard or seen.

Question by same. State whether there are, in the society, several persons (especially females) who, by reason of old age and infirmities, are unable to provide for and support themselves?

Answer. I believe there are; I have seen several.

Question by same. What has been the effect upon the surrounding country of the business transactions of the society?

Answer. I should [think] it was good.

Cross examined by Mr. Chapman.

Question by him. Are you generally acquainted with the members of the society?

Answer. I am.

Question by same. Have you ever attended any official meeting of the society?

Answer. I have not.

Question by same. Have the affairs of the society been conducted by the same persons ever since you were acquainted with the society?

Answer. I do not know.

Question by same. Who appears at present to be conducting the affairs of the society, so far as your observations go?

Answer. L. F. Birk, Mr. Silvan, and Aukerman.

Question by same. Did you ever know any other persons to occupy those positions?

Answer. I do not know that I did.

Question by same. How long have you been acquainted with the society?

Answer. A little upwards of 30 years.

Question by same. During that period of thirty years, have you known any other persons than those you have named to have controlled the affairs of the society?

Answer. I have not.

Question by same. Is that fact one on which you rely as illustrating your position that there is as much equality among the members as could exist in such a community?

Answer. It is only for the last four years that I have known who were the trustees; before that I did not know who were the trustees, or that there were trustees; I was but a boy.

Question by same. What is your age?
Answer. I was 39 years old in January last.

D. K. NIXON.

Deposition of John C. Ricky.

John C. Ricky, of lawful age, deposes as follows:

Question by Mr. Hance, counsel for respondents. Are you acquainted with the society of Separatists at Zoar; and if so, how long and by what officers are its affairs managed?

Answer. I am acquainted with that society—have been over sixteen years; its affairs are managed, I believe, by 3 trustees, a committee of 5, and a treasurer.

Question by same. Have you had frequent business transactions with [them,] and if so, with whom did you transact the same?

Answer. I have, and transacted the same with various persons; I have done business with Bimeler, with Birk, with Weible, and others.

Question by same. In what capacity did Bimeler act when you transacted business with him?

Answer. In that of an agent for the society.

Question by same. Were these transactions with Bimeler settled at once?

Answer. No; before coming to any conclusion he would refer to the trustees or the committee; this has frequently been the case.

Question by same. Have you frequently been at Zoar and observed the members?

Answer. I have.

Question by same. What has been and is the condition of the members as to equality and the means of comfort; also as to cheerfulness and contentment?

Answer. So far as my observation goes as to equality, I have never observed any difference; as to their means of comfort, I have considered that they occupied an enviable condition; they have always appeared quite at home, and cheerful and contented.

Question by same. What has been and is the state of morals among the members?

Answer. Strictly moral, I believe.

Question by same. What has been the effect upon the surrounding country of the business transactions of the society?

Answer. In my opinion it has been good.

Question by same.

Cross examined by Mr. Chapman.

Question by him. How far have you resided during those sixteen years from Zoar?

Answer. A part of the time 9 miles; the balance 6 miles.

Question by same. Do you converse in German language?

Answer. I do not.

Question by same. With how many members of the society have you an acquaintance?

Answer. Not particularly acquainted with more than a dozen or fifteen.

Question by same. How many members are there belonging to the society?

Answer. I cannot state definitely.

Question by same. By what means did you become informed that in addition to 3 trustees the officers of the society consisted of a committee of 5 and a treasurer?

Answer. I have been so informed by several of the members, and their statements have been corroborated by all with whom I have conversed.

Question by same. At what time did you obtain this information?

Answer. It is several years since I first learned of the committee, and I have had my memory refreshed to-day since I came to Zoar.

Question by same. With whom have you been conversing to-day on this subject?

Answer. With George Critzinger.

Question by same. Did you converse with Critzinger with a view to refresh your recollection, the better to testify to-day?

Answer. It was for that purpose.

Question by same. Did you ever do any business with the treasurer of the society?

Answer. I think I have had an exchange of money with him; it was Joseph M. Bimeler.

Question by same. During the sixteen years that you have been acquainted with the society, what persons have ostensibly conducted the affairs of the society?

Answer. Joseph M. Bimeler and Lewis F. Birk, Jacob Silvan, Jacob Aukerman, and Caspar Felter, (now dead,) Christian Roaf, and others.

Question by same. What portion of the information contained in the last answer did you obtain from the defendants themselves, in conversation with them to-day?

Answer. No part except their names.

Question by same. What in your opinion is the probable number of members now, or that has been in the society?

Answer. I should suppose over one hundred, at present.

Question by same. Have you ever visited the sleeping apartments of the laboring portion of the society?

Answer. Not generally.

Question by same. Have you ever attended a meeting of the members of the society for business or an election?

Answer. I have not.

Question by same. Are you possessed of any facts tending to *allucidate* the equality of the members of the society, except those you have already stated?

Answer. Yes, I have had statements from common laborers in the society.

JOHN C. RICKY.

Deposition of Christian Deardorff.

Christian Deardorff, of lawful age, deposes as follows:

I am acquainted with the society of Separatists at Zoar; they came here in the fall of 1817, and I became acquainted with them the spring following; they settled upon the 4,000 acre tract where Zoar is situated, it then being in a wilderness. I learned about that time from Mr. Bimeler, and I believe it was so generally understood, that the society purchased their land on a credit at $4 or $5 per acre; they also purchased another tract adjoining of 1,000 acres upon the same terms of credit. The means of the society at that time were rather scanty; some of the members went out to labor; they all seemed to work jointly men and women, in clearing up land, &c. It was not, I think, until 1828, 1829, or 1830 that the society got their land paid for. After the land was paid for they began to make improvements, in making better buildings, clearing up their land, &c. After these improvements they appeared to live more comfortable, for their buildings at first were very poor ones. An increase of comfort was also manifest from improved clothing which the members wore. They have continued from that time on to improve in acquiring more land, making further improvements, and in making further provision for the comfort of their members. From their first settlement here until the present time, the character of their members has been that of a moral and industrious community. Joseph M. Bimeler has always appeared to me to be a prominent member in the society, and has always sustained a good character for integrity. So far as I have observed, the members generally are, and have been for several years past, in a comfortable and contented condition. The effect of the transactions of the society upon the surrounding country has been good. The mills and other manufacturing establishments erected by the society has added, I think, at least 10 per cent. to the lands in the vicinity of Zoar. The lands of the society have been, as I have always understood, improved with a view to a common use.

C. DEARDORFF.

Deposition of Daniel Keller.

Daniel Keller, of lawful age, deposes as follows: I am acquainted with the society of Separatists at Zoar, and for the last three years have been employed as a clerk in one of the furnaces of the society, situated three miles from Zoar. I was employed at the furnace by Mr. Burk, a trustee of the society, and by him was instructed as to my duties as such clerk. The management of the furnace is under the immediate charge and superintendence of Michael Miller, one of the members of

the society. The affairs of the society are under the control of directors or trustees, I think; I do not visit Zoar more than three or four times in the year. There is a number in the society of aged and infirm persons, especially of females. I know this by seeing them in the meetings. Michael Miller has a horse and buggy furnished to him by the society for his use; I have eaten at the different houses in Zoar, viz., at the private boarding houses, at Mr. Burk's, at the tavern, and at Mr. Bimeler's house, and I did not suppose that any one lived more sumptuously than the other. There was plenty, at all of them, of good, substantial food.

Cross examined by Mr. Chapman.

Question by him. Have you eaten at any other house in Zoar than Bimeler's, Burk's, and Critzinger's? If so, name them.

Answer. No; I think not.

Question by same. How many of the laboring members of the society ate with you at Bimeler's, and who are they?

Answer. Mr. Weible and his family, Mr. Sylvan and his family, Barbara Wagoner, Christian Zimmerman, Mrs. Miller, and others, whom I cannot name.

Question by same. Were these persons regular boarders at Bimeler's at that time?

Answer. I can only answer that from report; they were, except Mrs. Miller.

Question by same. Were the persons whom you ate with at Burk's all regular boarders there?

Answer. I presume they were; they were all laboring persons and had their aprons on.

D. KELLER.

Deposition of Horatio Roby.

Horatio Roby, of lawful age, deposes as follows:

Question by Mr. Hance, counsel for respondents. Are you acquainted with the society of Separatists at Zoar; and, if so, how long have you been?

Answer. I am, and have been upwards of twenty years; I was employed by the society in the years 1836, 1837, and part of 1838, over two years, as a manager of one of their furnaces, about 1½ miles from Zoar; and after that time I frequently visited Zoar for some years.

Question by same. By whom or what officers are the affairs of the society managed?

Answer. By trustees.

Question by same. In what capacity did Jos. M. Bimeler act while you were employed by the society?

Answer. I understood that he acted as a general agent for them.

Question by same. Did you have transactions with Bimeler as such

agent; if so, did he act independent of the trustees, or upon consultation with and under the direction of the trustees?

Answer. I did; and I know that he consulted the trustees. It was no uncommon occurrence for him to defer giving me an answer until he could have such consultation.

Question by same. State whether, whilst in the employ of the society, you ate at the table of several of the members, and also at Bimeler's table.

Answer. I did; and have since.

Question by same. During your knowledge of the society, what has been the condition of the members as to equality and the means of comfort; also as to cheerfulness and contentment?

Answer. I have considered them very uniform; and, from all appearances, I should consider them very comfortable, and they have always appeared cheerful and contented. I don't know that I ever heard any complaints.

Question by same. How do the members labor?

Answer. They labor steadily, but very moderately.

Question by same. Have you been for many years intimately acquainted with Bimeler and his habits?

Answer. I have been for nearly 20 years.

Question by same. What has been his character and conduct in reference to the prosperity of the society and the happiness of its members?

Answer. I think, and have no doubt, that he has used every effort in his power for the interest and prosperity of the society.

Question by same. What is the state of morals among the members of the society, and what has been the same?

Answer. Good; better than that of people generally in this country.

Question by same. How have the means and the labor of the society been employed.

Answer. For the benefit of the society generally, so far as my information extends. I know nothing else.

Question by same. What departments of the business of the society has Bimeler been in the habit of visiting personally?

Answer. I know he has visited the furnaces in person.

Question by same. How did he then travel?

Answer. Generally in a two-horse carriage; part of the time in a one-horse carriage, I think. His carriage was a plain ordinary carriage, and his horses were of a common kind, worth perhaps, both of them, not to exceed from $100 to $120.

Cross examined by Mr. Chapman.

Question by him. During the time you were in the employ of the society, or at any other time, did you ever attend any official meeting of the members of the society, or election?

Answer. I did not.

Question by same. During the time you were in the employ of the society, or at any other time, were you aware of any such meeting or election being held?

Answer. Yes; I think so.

Question by same. State if you recollect any particular occasion of being aware of such meeting or election, and when and how you were made aware of it?

Answer. I cannot say when, but I recollect of the members leaving their labor to attend, as I understood, their annual election.

Question by same. Who have acted as trustees of the society during your acquaintance with it?

Answer. I will name those I have understood, viz., Mr. Burk, Aukerman, and (I think) Geo. Critzinger, Jacob Sylvan, I think David Sylvan; I don't know that I can name any more at present.

Question by same. Do you know any thing about the powers of the trustees, and of the general agent, and which are paramount?

Answer. I can only say what I've understood, and that is, that the matters were controlled by the trustees.

Question by same. State whether you have ever had transactions with Bimeler respecting the affairs or business operations of the society, in which he did not consult the trustees?

Answer. It is a question I could not answer positively; but in all probability I have.

Question by same. Do you converse in the German language?

Answer. No.

Question by same. During the time you were in the employ of the society, of how many members did it consist, according to the best of your information and belief?

Answer. I have no recollection now; nor do I know that I ever knew.

Question by same. Should you suppose that there might have been two hundred?

Answer. There might have been; but I could not say whether there were two hundred or three hundred.

Question by same. What proportions of these 200 or 300 were able to converse freely in the English language?

Answer. That I have no knowledge of; all I know is, that all that I had business with conversed freely enough in business matters.

Question by same. What proportion of the members did you have business with, and converse with on business matters?

Answer. That is impossible for me to tell, not knowing the number of members.

Question by same. State the names of such members as you had business with, and conversed with on business matters?

Answer. Caspar Felter, George Rouf, Mathew Bealer, Peter Bimeler, Jacob Aukerman, George Aukerman, Jacob Fritz, Christian Weible, Jacob and David Sylvan, Lewis Burk, George Critzinger, and a

number of others whose names I do not recollect. I recollect now John Goesele, William Ahas, and Bonsenberger.

Question by same. Did these persons you have named converse in the English language?

Answer. Yes, all of them; some better and some worse.

Question by same. How many other persons, in your opinion, were able to converse in the English language, besides those you have named?

Answer. It is impossible for me to say; there are others; some women, whose names I never knew.

Question by same. At the time you were in the employ of the society, were there any persons, members of it, who could not converse in the English language?

Answer. I should judge there was; such is my opinion, though I would not say positively.

Question by same. Were you sufficiently acquainted with the members of the society to give an opinion as to whether a larger proportion were acquainted with the English than those unacquainted with it?

Answer. My opinion is that I was, as to the male class of the society.

Question by same. What is your opinion as to that matter?

Answer. That a majority understood, and then understood the English language, more or less.

Question by same. Were you sufficiently acquainted with the society to give an opinion as to whether a larger proportion of the members were males than females in 1836, 1837, and 1838?

Answer. I was not.

Question by same. As far as your observation extended, did or did not the members of the society, the most conversant with the English language, occupy positions in the society, and in respect to community at large, more prominent than those less conversant in the English language, as well as those who did not understand it at all; and was not their proficiency in the language probably attributable to the positions they so occupied as trustees, agents, managers, &c., on behalf of the society?

Answer. I think so.

Question by same. Did you ever hold any conversation with any of the individuals, members of the society, who did not converse in the English language, through an interpreter or otherwise, as to their condition as members of the society, their equality, cheerfulness, and contentment?

Answer. No; I only judge of their condition by their appearances and conduct.

Question by same. You have stated that Bimeler visited the furnace in a carriage; was there any other carriage to your knowledge owned by the society, or used by any member thereof?

Answer. I think there was another carriage; I would not be positive; that's my impression.

Question by same. Where was it kept; in whose use and custody?

Answer. The one I refer to was kept at the hotel, I think.

Question by same. Are you sure that that was not the one used by Bimeler, and none other?

Answer. Yes; I think I am pretty sure.

Question by same. You have placed a value upon the horses used by Bimeler twelve years ago; will you state whether the value of horses was not much lower then than now?

Answer. Yes; from my personal recollection.

H. ROBY.

Deposition of John Patton.

John Patton, of lawful age, deposes as follows:

Question by Mr. Hance, counsel for respondents. Are you acquainted with the society of Separatists at Zoar; how long have you been?

Answer. I have been since the fall of 1834.

Question by same. How near during that time have you resided at Zoar?

Answer. About eleven years; within three miles.

Question by same. Did you know John Goesele and Matthias Hileman, formerly members of the society?

Answer. I did.

Question by same. Do you remember the occasions of the pendency of suits in the cases of Weishaar and Schauty against Bimeler and others, and the signing and swearing to the answers by the defendants in these suits?

Answer. I do.

Question by same. In what capacity did you act in reference to those answers?

Answer. They were signed and sworn to before me in my capacity as a justice of the peace

Question by same. Were Goesele and Hileman defendants to these suits, and did the[y] sign and swear to those answers on the occasion to which you have referred?

Answer. They were; and signed and swore to those answers.

Question by same. State what transpired on that occasion.

Answer. The answers were read by Mr. Hance and were signed by these defendants in my presence.

Question by same. Did any altercation whatever, on that occasion, occur between Bimeler and Heilman and Gasely, or either of them?

Answer. None in my presence.

Question by same. So far as you have observed, what has been the condition of the members of the society, as to equality and the means of comfort?

Answer. It has been of equality and the means of comfort good.

Question by same. By what officers of the society are its affairs managed?

Answer. By trustees.

Cross examined by Mr. Chapman.

Question by him. Do you understand the German language?

Answer. I do not.

JOHN PATTON.

Deposition of B. S. Belknap.

Bissell S. Belknap, of lawful age, deposes as follows:

I am acquainted with the society of Separatists at Zoar, and have been about fourteen years, during which time I have resided about three miles from Zoar. The affairs of the society are managed by trustees, who are elected by the members. I have had business transactions with the society to some extent, and have frequently been at Zoar, and observed the members while about their ordinary occupations. As to equality I have observed remarkable uniformity among the members, and their means of comfort good. The manifestation of cheerfulness and contentment among the members generally has arrested my attention. The morals of the members of the society, so far as I have been able to judge, I should think good. The operations of the society I should not hesitate to say have been beneficial to the surrounding country.

Cross examined by Mr. Chapman.

Question by him. Have you ever been present at the election, by the members of the society, of the trustees?

Answer. I have not.

Question by same. How do you know that the trustees are elected by the members?

Answer. By common report.

B. S. BELKNAP.

Deposition of James Rutter.

James Rutter, of lawfall age, deposes as follows:

Question by Mr. Hance, counsel for respondents. Are you acquainted with the society of Separatists at Zoar; and, if so, how long have you been?

Answer. I have been since the fall of 1838 acquainted with the society.

Question by same. Have you been in the employ of the society; if so, how long and in what capacity?

Answer. I have been employed during the summer season, from the

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spring of 1839 to the fall of 1844, in running a boat on the canal for the society.

Question by same. Where did you board and spend your time during the winters throughout that period?

Answer. Part of the time at the tavern near Zoar, occupied by Goesely, and one winter at the furnace of the society, and one winter I spent away.

Question by same. Where have you resided since the fall of 1844?

Answer. On my farm about two miles from Zoar.

Question by same. Whilst living upon your farm have you frequently visited Zoar, and had business with the society?

Answer. I have.

Question by same. By what officers are the affairs of the society managed?

Answer. I believe generally by the trustees.

Question by same. State whether an interest has been manifested on the part of prominent members of the society upon the subject of education, and whether efforts have been made and means used to provide instruction for the children of the members.

Answer. I have always thought so, and have heard the members so speak on that subject, and known them to make efforts to obtain good teachers. I think a school is generally kept up in Zoar the year round.

Question by same. What has been and is the condition of the members as to equality, and as to the means of comfort; also as to cheerfulness and contentment?

Answer. I have always thought that they were about on an equal; I did not see any difference; I have also thought that they had the means of comfort to a greater extent than the neighbors in general about Zoar; *the* have always been cheerful and contented when I was near them; I never saw any thing to the contrary.

Question by same. Have you associated with the members and eaten at their tables?

Answer. I have.

Question by same. How have the members labored?

Answer. I think very moderately; I have often said that one stout hand could do as much in a day as three of them did.

Question by same. What has been and is the state of morals among the members?

Answer. I think very good.

Question by same. Has the society uniformly had in its employ hired men and women, and has attention been paid to the morals of such hired persons?

Answer. They have had hired men and women, and I have always thought that great attention has been paid to the morals of such persons; I have heard of their having discharged persons hired by them on account of immoral practices, &c.

Question by same. Were you instructed on behalf of the society as

to the character of the persons whom you might employ in assisting to manage their boat.

Answer. I was instructed to employ none but good, moral, and sober men.

Question by same. Were you instructed on behalf of the society as to the care which you should exercise over the association of young persons under the care of the society, who occasionally went with you to assist in managing the boat?

Answer. I was instructed to see to them, take good care of them, and keep them out of bad company, &c.

Question by same. Have you been for many years intimately acquainted with Joseph M. Bimeler, and with his habits?

Answer. I have.

Question by same. What has been and is his character for integrity, and what has been his conduct in reference to the general prosperity of the society and the happiness of its members?

Answer. His character for integrity has been very good; I have always understood, and I have always thought, that he always did all he could for the interest of the society and its members.

Question by same. What have been his habits of industry touching the business of the society?

Answer. I have always thought him very industrious, more so than I generally find folks.

Question by same. Have you known the horses used by Bimeler for several years past? If so, state their value any time within the last five years.

Answer. I have known them for ten years past; the two at any time within five years past were not worth more than $50; one of them is over 20 years old, and both are crippled.

Question by same. How is Bimeler's clothing and his table, compared with other members?

Answer. I have never seen but very little difference, if any.

Question by same. What has been the effect upon the surrounding country of the operations carried on by the society?

Answer. I have thought it to be of benefit to the surrounding country.

Question by same. Have the lands of the society been improved with reference to a common use, and could the same be divided without manifest injury and loss?

Answer. They have, I think; and don't believe that if divided the members would be as well off.

Question by same. Are there in the society many aged and infirm persons, especially females, unable to support and provide for themselves, and incapable of managing property?

Answer. I have seen a good many who are aged and infirm, and could not, I think, manage property if they had any, nor could they support themselves.

Cross examined by Mr. Chapman.

Question by him. Are you informed as to the number of the members of the society?

Answer. I think not.

Question by same. What would you estimate their number at?

Answer. I would suppose from 100 to 150; there may be more or less.

Question by same. What number of acres of land is the society possessed of according to the best of your belief?

Answer. I have understood about 8,000 acres; I cannot say exactly.

Question by same. Are you tolerably well acquainted with the land?

Answer. I am with some of it.

Question by same. It is well improved?

Answer. Some of it is tolerable, probably; a good deal of it is not improved at all.

Question by same. What is the average value of the land per acre, exclusive of mills and town property?

Answer. I should think it would range from $8 to $12 per acre.

Question by same. How many and what is the character of the mills on this property?

Answer. Two grist mills and a new one that is building; I do not consider them very valuable.

Question by same. What is the mill on the canal worth?

Answer. I suppose it would not bring at sale $7000, including the warehouse.

Question by same. What is the town of Zoar worth?

Answer. It is a hard matter for me to say what it would be worth.

Question by same. Is it worth $2,000?

Answer. I should suppose it is.

Question by same. Is it worth $10,000?

Answer. It might be worth that for all I know.

Question by same. Is it your opinion that it is worth $20,000?

Answer. It might be; I don't know what it would bring.

Question by same. You have stated that if the lands were to be divided, you do not believe the members would be as well off; what are the grounds of this opinion?

Answer. Some of them are not able to work; are too old; and from the way they live, they are better off than they would be any where else.

Question by same. If there was property enough here on division to support during life such persons as are too old or infirm to labor, out of their respective shares alone, would you still think it better for them to continue as they are?

Answer. I would.

Question by same. Are you a "socialist" in sentiment?

Answer. I don't understand that.

Question by same. Have you ever made application to become a member of the society?

Answer. I never have.

Question by same. At what time, and under what circumstances, have you known Bimeler do anything for the interests of the society, and to make them well and comfortable; and can you refer to any fact?

Answer. I have been in his house frequently when the members of the society came in, and he treated them very kindly, and I have seen them ride out with him.

Question by same. Can you refer to any other fact in support of your opinion?

Answer. I don't know of any thing particular that I've seen take place.

Question by same. You've stated that you have heard of hands that were employed by the society being discharged for immorality, can you refer to any particular case; can you state the character of the immorality complained of, or the length of time it was practised before it was interrupted?

Answer. I cannot.

Question by same. State any fact in your knowledge, illustrating the opinion you have expressed, that attention was paid to the morals of those employed by the society?

Answer. I know of nothing within my knowledge; I think I have heard them talking to those who did not behave well.

JAMES RUTTER.

Deposition of George Stoerl.

George Stoerl, of lawful age, deposes as follows:

Question by Mr. Hance, counsel for respondents. Are you acquainted with the society of Separatists at Zoar; and if so, how long have you been?

Answer. I am, and have been since the year 1842, and have been in their employ from that time, and still am.

Question by same. At what have you been employed, and where have you resided?

Answer. I was a clerk in the store at Zoar, 1842 and 1843, and since then at the store at the furnace, two miles from Zoar. I have also done business abroad for the society in buying goods at New York.

Question by same. State your knowledge as to the officers who manage the affairs of the society; for whose use and benefit the various business operations of the society are carried on.

Answer. The officers are called trustees, who are annually elected, so far as I know. The business operations of the society are carried on for its benefit. Whilst employed at the store in Zoar, I boarded at the hotel, where the hired men and *labors* also boarded. I did not often associate with the members of the society, except with a few. I saw many of them daily. While at the store at the furnace, I have

boarded with a member of the society, and have during that time been at Zoar often; most every week, two, three, or four times a week. I have been in the habit of observing the members, and I know by observation their condition. Equality exists among the members; there is no difference at all, and they all have the means of comfort; they are cheerful and contented; they labor moderately, not hard. So far as I know, Bimeler acts in the character of an agent, and he strives to promote the interests of the society. The morals of the members *is* good. So far as I know, every effort is made to preserve the morals of the society, and to obtain the best laborers, in regard to their morals. There is no distinction made in the treatment and provision made for children of the members of the society. There is an interest felt by the members to procure the best teachers, and provide the means of education for the children of the members. They have paid from $400 to $500 per year for teachers in their schools. I know that there are some old and infirm members in the society.

Cross examined by Mr. Chapman.

I am not a member of the society, and never thought of joining the society. I am employed by the society at a salary of $300. I was never present at an election of trustees. I was never present at a meeting of the officers of the society for official business.

GEORGE STOERL.

Deposition of John C. Aukerman.

John C. Aukerman, of lawful age, deposes as follows: I came to Zoar in 1840, and have been in the employment of the Zoar society, in the tannery, ever since; during which time I have boarded and worked with the members for wages, and associated and conversed with them. The affairs of the society are managed by trustees, who [are] elected by the members. I have been several times present at these elections, which take place every year once. They vote with tickets; males and females vote. The members of the second class vote only. The members vote individually for whom they choose. I have seen no interference. I have several times attended the State elections and voted in company with the members, or most of them. Members have a right to vote at these elections as they choose. No instructions are given to them by the society, as to whom they shall vote for. Each one of the members lives in the society alike, and all have a plenty of every thing; are in good spirits, contented, and satisfied. There are, at present in the society from 12 to 15 quite old and infirm members, the most of whom are females.

Cross examined by Mr. Chapman.

I am not a member of the society; I was 19 years old when I came

to Zoar; I was induced to come here to Zoar, because I thought I would do better than [in] any place else; I am related to one of the trustees, viz., Aukerman; I am his *cozzin;* I have sometimes thought of joining the society; I have not yet become a member of the first class; I think the society a good thing, and well calculated for the happiness of the people; I would like to belong to it, and I contemplate making application for admission into the society. At the elections held in the society, there have been, I think, about 75 votes cast, more or less; I could not say exactly. These votes have generally been unanimous for one set of men; I don't recollect of there ever being two sets of candidates for the same office. Christian Weible generally acts as clerk at elections. There are tickets in the store; but if the members don't want them, they can write their own tickets. There are, as near as I can guess, from 160 to 175 members in the society of both classes. The most of the men can talk the English language. The largest number of the whole members *is* females; not very many of the females can talk English. So far as I know, the members vote at the State elections the same ticket; they get their tickets at the store, in Zoar, before they go to the election; I got mine there. It seems to me they have both kinds of tickets at the store.

JOHN C. ACKERMAN.

Deposition of Frederick Zeltman.

Frederick Zeltman, of lawful age, deposes as follows: I came to Zoar in 1834, then about 12 years of age, and have been employed in the society ever since; I am now 27 years old; I came here with my father, who became and still is a member of the society. During my minority, I labored for, and was supported by, the society; I am not a member of the society. Since I became of full age, I have worked for wages in the society. The officers who manage the affairs of the society are three trustees. The society supports the children of members while under age. After they become of age, they become members, if they choose, by signing their names to articles, I have been told; I know nothing else; I have never been about such a case. After I became of age, Aukerman, (one of the trustees,) applied to me to know what I was going to do; I told him I wanted to work for wages. The members are alike as to their living and every thing else; they are generally in good spirits, cheerful, and satisfied; I have a family, and live in a house owned by the society, across the river.

Cross examined by Mr. Chapman.

I have been engaged for common as a saddler since [I be]came of age; I've been married about three years.

Question by Mr. Chapman. Whom did you marry; a girl you found at Zoar?

Answer. Yes; she was employed there for wages.

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Question by same Was your mother alive when you came to Zoar?

Answer. She was not.

Question by same. What extent of education did you receive at Zoar?

Answer. I learnt English and German, so that I can get along well enough.

Question by same. What branches?

Answer. Reading, writing, cyphering, and geography.

Question by same. How many years have you been at Zoar?

Answer. Better than 14 years.

Question by same. What places abroad have you visited during that time?

Answer. To Philadelphia, Dover, Bolivar, Lawrenceville, Massillon, Akron, Cleveland, Ravenna, Franklin, Cuyahoga falls, Newton falls, Cammelsport, [and] Warren.

Question by same. What business were you engaged in through those places?

Answer. In boating on the canal.

Question by same. What length of time have you been boating; how many seasons?

Answer. Once 4 trips; after that from spring till after harvest.

Question by same. Whose boat were you on?

Answer. On the society's boat.

Question by same. Why did you not join the society heretofore?

Answer. I don't know; I was young, and I wanted to be for myself; I had no particular complaint against the society.

Question by same. Did you ever make application to become a member?

Answer. I never did.

Question by same. Were you ever asked to become a member?

Answer. No.

Question by same. You say the members are all equal; are they all general agents; all trustees; all treasurers; all managers; all storekeepers; all overseers?

Answer. They are not; they can't be.

Question by same. Did you ever mean to say they were equal in that?

Answer. I did not.

Question by same. Have you ever known the offices of general agent and treasurer to be held by any other than the same person?

Answer. I never heard of such offices; I don't know what you allude to.

Question by same. How many different persons have you ever known to be trustees of the society?

Answer. George Gaesly, Christian Ruof, Lewis F. Birk, Jacob Aukerman, Jacob Sylvan; these are all I know of.

Question by same. What position does your father occupy in the society?

Answer. He is a wagon maker.

Question by same. Under whose direction does he work?

Answer. Aukerman attends to that; he is a wagon maker.

Question by same. Does your father leave Zoar to go away any where?

Answer. Yes.

Re-examined in chief by Mr. Hance.

You have said that you did not know of such an office in the society as "general agent," do you know of the office of "agent;" if so, who has held that office?

Answer. I do know of the office of agent; Bimeler is agent.

FREDERICK ZELTMAN.

Deposition of A. J. Bennett.

Alvin J. Bennett, of lawful age, deposes as follows:

I have resided at Bolivar, about 3 miles from Zoar, about 18 years, during which time I have been engaged in the capacity of a physician. My acquaintance with the society at Zoar commenced soon after I came to Bolivar, and has continued ever since. I have frequently been in Zoar. During the several years last past my visits to Zoar have been more intimate than before, and my opportunities have [been] such as to enable me to form a general idea of the condition of the society. As to equality among the members I have no knowledge, except in a general way. They have appeared to me to enjoy a reasonable degree of comfort as to diet, apparel, and labor. Their labor has appeared to be of a moderate character. As a general thing, I have thought that the members were cheerful and contented; I do not refer to those who were dissatisfied and have left the society. Their morals, I think, are very good. I have considered the effect upon the surrounding country of the various operations of the society to be good.

Cross examined by Mr. Chapman.

Question by Mr. Chapman. Is it your opinion that the holding of the lands in so large bodies as 8,000 acres is as advantageous to the welfare of the State, and the people at large, as its being held in smaller bodies, say from 100 to 200 acres?

Answer. As a general thing, I would be in favor of holding land in small quantities. Cases might arise that would form an exception to the general rule.

Question by same. As far as your observation and reading goes, as to this and other countries of the world, is not the wealth and prosperity of this and other countries proportioned to the extent to which the lands are parcelled out among actual settlers, and in small quantities? (Objected to by respondents' counsel.)

Answer. With some exceptions I would answer "yes."

A. J. BENNETT.

Deposition of H. Stelling.

Henry Stelling, of lawful age, deposes as follows:

Question by Mr. Hance, for respondents. Are you acquainted with, and how long have you known, the society of Separatists?

Answer. I am, and have been about 14 years; I came to Zoar about 14 years ago, and have ever since been employed by the society as a carpenter for wages; I still work for the society, and live at Zoar.

Question by same. During that time have you labored and associated with the members of the society?

Answer. I have.

Question by same. By what officers have been, and are, the affairs of the society managed?

Answer. By 3 directors.

Question by same. What has been, and is, the condition of the members as to equality, and as to the means of comfort; also as to cheerfulness and contentment?

Answer. It has been, and is yet, what it ought to be; of late better than formerly as to equality. As to the means of comfort it is right. They are all, so far as I know, cheerful and contented.

HENRY STELLING.

Deposition of J. Blickensderfer.

Jacob Blickensderfer, of lawful age, deposes as follows:

Question by Mr. Hance, for respondents. State your knowledge of the settlement, and early history of the people of Zoar, in this Tuscarawas county?

Answer. Joseph M. Bimeler purchased in the fall of 1817, of Godfrey Haga, of the city of Philadelphia, 5,500 acres of land; one quarter township of 4,000 acres on which Zoar now stands; 500 acres adjoining the same on the east, and one thousand acres on One Leg creek, some distance above the mouth of said creek, and several miles from the former tracts. For this land he gave three bonds of $5,000 each, payable in 13 years, 3 years without interest, and then bearing legal interest until paid. This land was purchased for the society at Zoar, and by them afterwards paid; and on this land the society of Separatists commenced operations, either very late in the above mentioned year, or early in 1818. The land was all unimproved, and they commenced in the woods. The first buildings they put up were nearly all small hewed log houses, and much of their stabling of a very temporary kind, such as forks dug into the ground with poles laid across, and the sides shut up with slabs. They paid nothing on their land, and they brought but little property with them, and their principal means consisted of a contribution of $18 per head, which had been raised for them by the Quakers of London, and paid out to them through some friends of Philadelphia, and Thomas Roach of Kendall. They soon made large improvements in the way of clearing lands, building a saw-mill and grist-mill, and but little improvements were

made in the town of Zoar until their land was paid for; which I believe was done within the thirteen years stipulated. After that period improvements, in the way of better buildings, were commenced and continued in Zoar.

Question by same. From the first settlement of the society until the present time have you been acquainted with its general condition, and on terms of intimacy with several of its members?

Answer. I have been on terms of intimacy with a good many of the members, and as well acquainted with the condition of the society as any one living at the distance from them that I have and do. The greater part of the time I have lived within 7 miles from them, and part of the time 9 and 14 miles from them; and, during my acquaintance with the society, have frequently visited them on business.

Question by same. State, if you know, by what officers the affairs of the society are managed, and have been.

Answer. Pretty soon after they became organized, I saw their articles of association, by which it was provided that their affairs were required to be managed by 3 trustees; and I have ever since understood that they were so managed, and are yet so managed; I know that Bimeler has continued to act as a general agent for the society.

Question by same. State any instance in your knowledge in which the power of Bimeler, as agent, and that of the trustees, came in conflict, and which prevailed.

Answer. I came to Zoar one time to obtain some brick, which I could not obtain elsewhere; there were none near; I applied to Bimeler for them, who seemed solicitous to accommodate me, and he went with me to the brick-yard to see the man which [had] in charge the *the* brick-yard; one of the trustees made a calculation of how many the society wanted at one place and another, and came to the conclusion that they had none to spare; the consequence was that I could not get any, and came away without any; Bimeler showed, in his conversation with the trustee, a considerable anxiety to accommodate me with the brick; but the trustee concluded he could not spare them, and the result was not varied by Mr. Bimeler's wishes.

Question by same. Specify, if you can, any instance in which Bimeler has declined to answer a proposition, made to him as the agent of the society, until the trustees should be convened and consulted.

Answer. I know of several more instances; one of which is that, having applied to him to purchase of the society a flat boat, he declined to give me an answer until the trustees could be consulted; upon consulting them, I obtained the flat.

Question by same. State whether you have, for several years, been on terms of intimacy with Bimeler, and have been acquainted with his habits, and the nature of the duties which have devolved upon him as the agent of the society.

Answer. I have, and have always thought that he has had more care and responsibility upon his mind than any other member.

Question by same. To the extent of your observation, what has

been the condition of the members as to equality and the means of comfort; also as to cheerfulness and contentment?

Answer. So far as I have observed, they fare alike, and are comfortably situated; they are cheerful, and I have never heard of discontent except from Schauty, and Weishaar, and Boushaf, and Bacher, who are now away from the society.

Question by same. What has been the effect of the business operations of the society upon the surrounding country?

Answer. It has been beneficial to a considerable extent.

Question by same. Has the land been improved with reference to a common use?

Answer. They have, as far as I can judge.

Question by same. Do you speak the German language; and in your intercourse with the society have you conversed freely with the members generally, male and female?

Answer. I do speak that language, and have conversed freely with the members, male and female.

Cross examined by Mr. Chapman.

Question by him. Do you not stand, and have you not for many years stood, in the light of an intimate friend of, and adviser to, the leading members of the society, sympathizing with them both in prosperity and adversity?

Answer. I have been occasionally advised with by them, but never considered myself their adviser; I have felt friendly toward them, and suppose they did toward me.

Question by same. Were not your feelings very early enlisted for the society by similarity in origin of language, and your being called on to act as interpreter for them; and have you not sympathized with them in every case in which an attempt has been made by seceding members to recover against them in court?

Answer. My feelings have not been enlisted for them by similarity of language, nor from being called upon as interpreter; when they had been here for a short time, they got a number of enemies around them; they could not get justice before the magistrates in their township, and had either to come to court on appeal, or let it go; it was then that my feelings were enlisted; as to the seceding members, in the case of Boushaf and Bacher, I acted as master commissioner, and took an immense amount of testimony, and was clearly of opinion that they ought not to recover; I thought Weishaar and Schauty were unreasonable and ought to be satisfied; but, as to my sympathy, I don't know that I feel any other than that justice may be done between them and the society.

JACOB BLICKENSDERFER.

THE STATE OF OHIO,
Tuscarawas county, ss.

I do certify, that the above named Westley Minor, J. S. Lappin, John Baily, D. K. Nixon, John C. Ricky, Christian Deardorff, Daniel Keller, Horatio Roby, John Patton, R. S. Belknap, James Rutter, George Storel, John C. Aukerman, Frederick Zeltman, Alvin J. Bennett, Henry Stelling, and Jacob Blickensderfer, were by me sworn or affirmed to testify, in the above entitled cause, the truth, the whole truth, and nothing but the truth; and that the foregoing depositions, by them respectively subscribed, were reduced to writing by me, and taken at the time and place specified in the notice for that purpose hereto attached; the taking of which ended at 10 o'clock, p. m., on the 27th day of June, A. D. 1849.

In testimony of which I hereto subscribe my name, officially, this 28th day of June, A. D. 1849.

SEYMOUR BELDEN,
Master comm'r in chancery, Tus. co., O.

Order.

And thereupon, to wit, on the twenty-fifth day of October, being at the October term of said court, in the year of our Lord one thousand eight hundred and fifty, this cause came on to be heard, this day, on the original and amended bills, answers, replications, evidence, and exhibits, and was argued by counsel; and the court, not being fully advised what decree to render in the [case,] hold the cause under advisement until the next term, to which the same is continued.

And afterwards, to wit, on the twenty-fifth day of April, in the year and at the term of said court first herein mentioned, this cause having been submitted to the court at the last term, and taken under advisement, and the court being now fully advised in the premises, do order, adjudge, and decree, that the complainants' bill be, and the same is hereby, dismissed; and it is further ordered and adjudged, that the complainants pay the costs of this suit within sixty days; and, in default thereof, that execution issue for the same, as on judgments at law; costs taxed to $227 30.

And thereupon came the complainants, by their solicitor, and prayed an appeal to the Supreme Court of the United States from the decree made in this cause, which appeal is allowed by the court; and the court certify that the amount in controversy in this cause exceeds the sum of two thousand dollars. Said appeal is allowed on the complainants giving bond, to the satisfaction of the clerk of this court, in the sum of fifteen hundred dollars, to secure the payment of all costs which may be adjudged or decreed against them.

Appeal bond.

And afterwards, to wit, on the eighteenth day of July, in the year of our Lord one thousand eight hundred and fifty-one, came the said

complainants, by their solicitor, and filed in the clerk's office aforesaid a certain appeal bond, which is in the words and figures following, to wit:

"Know all men by these presents, that we, David Quinn and Augustus Renz, are held and firmly bound unto Joseph M. Bimeler, Godfrey Leutz, John G. Gretzinger, Jacob Sillfang, David Sillfang, Godfrey Kappel, Barbara Werner, Catharine Werner, Magdalena Ackerman, Johanna Mack, Elizabeth Martins, Mariana Wintergerst, Margaretha Maier, Ann Maria Link, Wilhelmina Huber, Agnes Boder, Margaretha Newltand, Barbara Sindlinger, Barbara Reiff, Barbara Beehler, John George Jans, Ann Maria Heid, John George Schauty, and Christian Weishaar, Conrad Breymaier and Margaret Breymaier, his wife, Matthew Heilman and Malinda Heilman, his wife, John Goesele and Anna Maria Gosele, his wife, and John George Boehringer, in the sum of fifteen hundred dollars; to the payment of which, well and truly to be made, we do hereby jointly and severally bind ourselves, our heirs, executors, and administrators. Sealed with our seals and dated this nineteenth day of May, A. D. 1851.

The condition of this obligation is such, that whereas John George Goesele, son of Johannes Goesele, deceased, Anna Maria Waldenmaier, daughter of the said Johannes Goesele, deceased, with Charles Waldenmaier, her husband, John Adam Mann, Anna Maria Mann, John Jacob Mann, and Maria Barbara Mann, minor children of Maria Barbara Mann, deceased, daughter of Johannes Goesele, deceased, by their guardian, John George Rentler, have taken an appeal from a certain decree rendered in the circuit court of the United States, for the district of Ohio, at the April term thereof, A. D. 1851, in the suit wherein the said John George Goesele, son of Johannes Goesele, deceased, Anna Maria Waldenmaier, daughter of the said Johannes Goesele, deceased, with Charles Waldenmaier, her husband, John Adam Mann, Anna Maria Mann, John Jacob Mann, and Maria Barbara Mann, minor children of Maria Barbara Mann, deceased, daughter of Johannes Goesele, deceased, by their guardian, John George Rentler, were complainants, and Joseph M. Bimeler, Godfrey Leutz, John G. Groetzinger, Jacob Sillfang, David Sillfang, Godfrey Kappel, Barbara Werner, Catharine Werner, Magdalena Ackerman, Johanna Mack, Elizabeth Martins, Marrianna Wintergerst, Margaretha Maier, Ann Maria Link, Wilhelmina Huber, Agnes Boder, Margaretha Newltand, Barbara Sendlinger, Barbara Reiff, Barbara Beehler, John George Jans, Ann Maria Hied, John George Schandy, and Christian Wieshaar, and Conrad Breymaier and Margaret Breymaier, his wife, Matthew Hillman and Malinda Hilman, his wife, John Goesele and Anna Maria Goesele, his wife, and John George Boehringer, were defendants, to the Supreme Court of the United States: Now if the said John G. Goesele, Ann Maria Waldenmaier, Charles Waldenmaier, her husband, John Adam Mann, Ann Maria Mann, John Jacob Mann, and Maria Barbara Mann, shall pay all costs which have accrued in said cause in said circuit court, as well as all costs which may accrue in the Supreme Court of the United